

THE DEPUTY CHAIRMAN: Now, we will take up the Essential Services Maintenance (Amendment) Bill, 1985 and Statutory Resolution. Now, Mr. S. B. Chavan.

**I. STATUTORY RESOLUTION RE.  
DECLARATION OF URANIUM  
INDUSTRY AS ESSENTIAL SERVICE**

**1L THE ESSENTIAL SERVICES  
MAINTENANCE (AMENDMENT) BILL,  
1985**

THE MINISTER OF HOME AFFAIRS (SHRI S. B. CHAVAN): Madam, I beg to move:

"That the Bill to amend the Essential Services Maintenance Act, 1981, as passed by the Lok Sabha, be taken into consideration."

As the House is aware, the Essential Services Maintenance Act, 1981 was brought on the Statute Book as part of a major effort to keep the wheels of production moving and with the object of ensuring uninterrupted maintenance of essential services so essential for national security and defence as well as for the economy. I would like to recall the circumstances which necessitated the enactment of this law. In 1980-81 there were certain disquieting trends on the Labour front affecting the maintenance of essential services in some vital sectors of the economy. The locomotive agitation and the prolonged agitation by public sector workers in Bangalore were illustrative of such trends. The labour situation which was marked by increasing violence brought matters to a head. It was considered necessary that if disruption of the normal life of the community was to be avoided and if production essential for national security and defence as well as for the economy was to continue, discipline and operational efficiency had to be maintained in all essential services.

The Essential Services Maintenance Ordinance, 1981 was accordingly promulgated on the 26th July, 1981 to secure these objectives. The Ordinance was replaced by the Essential services Maintenance Act, 1981 which has a wider compass than the Ordinance, in as much as it empowers the Central Government to prohibit not only strikes, but also lock-outs and lay-offs in essential services.

When the legislation was being discussed in Parliament Government had made it clear that the objective was to create a healthy climate in which production would increase at a faster rate and essential services would be maintained without any disruption. It was also reiterated in Parliament that the powers available to the Central Government would be used with great care and caution and only after Government is convinced that, if the powers are not exercised, the situation would deteriorate and grave hardship would be inflicted on the people. In the course of the last four years of the working of the Ordinance/Act, Central Government have invoked the powers under the Act only on 30 (Thirty) occasions to issue orders prohibiting strikes in essential services or to extend the period of operation of such orders prohibiting strikes. These orders were issued to meet grave situations such as these arising out of call for Assam Bandh, strike by Maharashtra State Electricity Boards engineers and threat of strike by employees of Food Corporation of India, Central Warehousing Corporation, Ccnl India Limited, Mathura Oil Refinery, AIR and Doordarshan, CPWD (connected with public, conservancy, sanitation, water and power supply in Delhi), Security Paper Mill, Hoshanga-bad, International Airports Authority of India, etc. On every such occasion when an order under the Act was issued, there was full consultation with the Ministry of Labour. As the Hon'ble Members would appreciate, the powers under the Act have been used very sparingly and only to meet situations in which non-exercise of the po-

wers under the Act would have resulted in serious consequences and hardships to the community.

The Act is to expire on the 22nd September, 1985. We have examined the question of extending the life of the Act beyond that date in great detail in consultation with the various Ministries and Departments of the Government of India and the State Governments and U.T. Administrations. There is a general consensus to extend the Act beyond 22nd September, 1985. Ministries and Departments which employ a large number of industrial workers and other staff such as Railways, Posts and Telegraphs, Defence, Finance (Banking Division), Shipping & Transport, Chemicals & Fertilizers, Petroleum, Steel, Food etc., have strongly recommended the extension of the Act. A number of State Governments have also favoured the extension of the Act. Government is also convinced that although the industrial relations climate at present is relatively better than what it was four years ago, there should be no let-up in the effort to keep the wheels of production moving faster in interest of national security and defence and for the growth of the economy. The Bill, therefore seeks to extend the life of the Act by five years.

I hope that in the light of what I have stated, the House will give support to the Bill.

THE DEPUTY CHAIRMAN: There is one amendment by Shri Dipen Ghosh.

SHRI DIPEN GHOSH (West Bengal) : Madam Deputy Chairman, I beg to move:

"That the Bill to amend the Essential Services Maintenance Act, 1981, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri M. S. Gurupadaswamy
2. Shri Sushil Chand Mohunta

3. Shri S. W. Dhobe
4. Shri V. Gopalsamy
5. Shri Lai K. Advani
6. Shri Parvathaneni Upendra
7. Shri Chaturanan Mishra
8. Shri Dipen Ghosh
9. Shri Nirmal Chatterjee
10. Shri Sukomal Sen

with instructions to report by the first day of the next Session."

THE DEPUTY CHAIRMAN: Mr. S. B. Chavan, are you moving the amendment on behalf of Shri Shivraj Patil. We are discussing it together.

SHRI DIPEN GHOSH: That has not been mentioned in the detailed report. Let it be taken up separately. *(interrupted)*. Suppose, this Bill be defeated what would happen to that statutory resolution? How can you move it? You cannot move it.

THE DEPUTY CHAIRMAN: We will have separate voting for both the Bills.

SHRI DIPEN GHOSH: But how can I move it in that case?

THE DEPUTY CHAIRMAN: It will be moved separately.

SHRI DIPEN GHOSH: You are moving this resolution assuming that the life of this Act will be extended. You cannot do it.

THE DEPUTY CHAIRMAN: Mr. Dipen Ghosh, I would like to explain to you that the Bills are going to be discussed together because they essentially have the same point. But when we are going to have the votings, both the Resolution and the Bill will be voted separately. So, if you want to defeat the Bill, you can defeat it. If you want to defeat the Resolution, you are most welcome to do it.

SHRI DIPEN GHOSH: Madam, you have not understood my objection. The objection is that if the Resolution is

[Shri Dipen Ghosh]

allowed to be moved, it is assumed that the life of this Act will be extended but unless it is extended, the Resolution cannot come.

THE DEPUTY CHAIRMAN: But you have heard it clearly. The Minister said: the life of this Bill is till 23rd Sepember. So, it is moved under that point.

SHRI DIPEN GHOSH: Right Madam

SHRI S. B. CHAVAN: Madam Deputy Chairman, I also beg to move the following Resolution on behalf of my colleague, Shri Shivraj Patil:

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance Act, 1981, this House approves the Notification of the Government of India in the Ministry of Home Affairs S.O. No. 595(E), dated the 8th August, 1985, published in the Gazette of India Extraordinary, Part-II, Section 3(ii) dated the 8th August, 1985, declaring 'Uranium Industry' as an essential service from the date of issue of the Notification, laid on the Table of the Rajya Sabha on the 16th August, 1985".

THE DEPUTY CHAIRMAN: The Questions were proposed.

SHRI DIPEN GHOSH: Madam Deputy Chairman, I rise to oppose this Bill and at the same time, the resolution moved by the Union Home Minister. Madam Deputy Chairman, you are aware that two or three States of the Union of India have not implemented or rather not taken recourse to this particular Act. And even these two or three States have not agreed to the extension of the life of this Act, as proposed by the Union Home Minister in this Bill. I am representing one of those two or three States, the State of West Bengal. And representing the people of West Bengal and representing the Communist Party of India

(Marxist), I oppose this Draconi Bill. And I also, oppose with all the strength at the command of my party, the Resolution which the Union Home Minister has moved, whether this Bill is passed or not.

I The Vice-Chairman (Shri Pawan Kumar Bansal) in the Chair. |

Mr. Vice-Chairman, Sir, you are also aware that when this particular Act was sought to be passed in this House we from the Opposition fought it tooth and nail and we said at that time that it was a black Act which was going to be enshrined in the statute-book. And the working class of our country had fought this black Act by disregarding it and going on strikes. We cannot allow this black Act to continue in the statute-book. I am sure that the working class of our country will also render this black Act into a piece of paper by going on strike after strike disregarding this Act.

Mr. Vice-Chairman, when we met in this House in the budget session, we saw a budget presented by the Central Government seeking to give concession after concession to the industrialists, to the capitalists, to the multi-nationals. We have seen how the multi-nationals are being invited. We have seen how the definition of monopoly houses has been changed and liberalised, how the import policy and export policy have been liberalised. And the Union Finance Minister has gone to the open House of the capitalists to declare these liberalised policies. So while liberalising the MRTP conditions, while liberalising the terms for inviting multi-nationals, while liberalising the industrial policy by opening up the preserved public sectors to the private sector, this Government is now trying to take away the rights from the workers and the working people. This is the dialectics of the policies of the ruling party at the Centre: the more the liberalisation for the capitalists, the more the liberalisation for the multi-nationals, the more the liberalisation for the private sector and the

more the strengthening of the armouries of the Central Government against the working class and the working people of our country.

Four years ago this Act was passed. Now again a Bill has been brought forth seeking extension of its life by another five years. What is the reason? What is the special situation obtaining today? The only situation obtaining today for seeking extension of its life by another five years is that a new economic policy has been declared by the present Government in favour of the multinationals, in favour of the big capitalists, in favour of the private sector and at the dictates given by those multinationals, by the private sector, by the capitalists, the rights of the workers are being sought to be taken away. Was it not Tata who demanded that there should be a moratorium on strikes? And now the Union Home Minister has come forward to please Tata by not declaring a moratorium on strikes but by denuding the working class of our country of their right to go on strike. This is the dialectics of the policies of the ruling party at the Centre. In the objects of the Essential Services Maintenance Bill when it was passed, it was stated that the Bill was being passed also to discipline the erring employers, to discipline the defaulting capitalists or industrialists and with that end in view certain provisions were incorporated in the Bill on how to tackle lockouts or closures once they are declared or how to tackle the illegal lockouts or strikes. While stating the objects and reasons in bringing forth this amending Bill the Union Home Minister said that in certain cases where this Act was applied, all those mentioned by the Union Home Minister are cases of workers' strikes. I would have been happy if the Home Minister could also say during the last four years on how many occasions this Act was applied to stop or prevent lockouts or closures by the employers, by the industrialists. But the Home Minister did not give that data because they did not do it. I would quote the figures here. The

total mandays lost due to closures and lockouts in 1981 when this Act was passed was 36.5 million and after the passing of this Act, when the Act was in force for four years, in 1984 the total mandays lost due to closures and lockouts rose to 40.47 million. Did this Act help you to stop lock-outs and closures, I know, after me Mr. N.K.P. Salve, my learned friend, will rise to defend the Government. I know it because by profession he is an advocate and an advocate is called in to defend even on indefensible act. I also know my friend, Mr. N.K.P. Salve, has got some expertise in pettifoggery. And for his consumption I would like to quote just two or three sentences from a news-item appearing in the *Times of India* of 23rd September 1984. I quote:

"Lock-outs, smaller in number than strikes,....." I repeat—"Lockouts, smaller in number than strikes and in a few States accounts for a big rise in man-days lost, a stuff of the labour scene shows."

Again, Sir, I quote:

"During 1982 as well as 1981, during the pendency of this Act, the man-days lost due to lock-outs being 68 per cent and 67 per cent respectively of the total were more than those due to strikes."

Again I quote:

"Lock-outs as a percentage of the total disputes were 13 in 1981, 19 in 1982 and 20 in 1983."

This so happens, thanks to, the existence of this Act having provisions for containing the lock-outs and closures in the country. (Time Bell rings). I will take only two or three minutes more. Sir.

Mr. Vice-Chairman, Sir. I want to note another figure also.

"Smaller proportions of lock-out\* have accounted for a sizeable share of the total production loss of Rs. 89.50 crores in 1982, Rs. 177.05 crores

[Shri Dipen Ghosh]

in 1983 and Rs. 22.59 crores in the first quarter of the year 1984."

So, this is the picture. This is the picture despite your Act containing certain provisions for tackling the lockouts and closures! Despite this Act, the number of man-days lost due to lockouts and closures has increased, the percentage of lock-outs and closures has increased in the amount involved in the production loss due to lock-outs and closures has also increased. Why? Will the honourable Home Minister kindly state why it is so? You have got an Act to tackle the workers' strike. You have got an Act also to tackle the industrialists' strike, that is, lock-outs and closures. But when the workers go on strike for achieving certain ends, for certain of their demands, you take recourse to this Act. When the industrialists strike by imposing closures or lock-outs, though you have provisions to tackle that, you do not take recourse to that Act to tackle that, to tackle those lock-outs and closures. This is the dialectics of your policy and that is why we oppose this. This is your dialectic, whether it is your budgetary policy or whether it is your industrial policy or whether it is your import-export policy or whether it is an Act like this, and all aim at benefiting the private sector, industrialists, capitalists and multinationals while denuding the working people of their right to living, right to better conditions of service, right to better wages. Will Mr. N.K.P. Salve say anything about this? Does this Act not go against the Fundamental Rights enshrined in Chapter III of the Constitution? Does this Act not hit even the Directive Principles of State Policy which call for ensuring better wages, better living conditions and better working conditions for the working people? Mr. Vice-Chairman, I oppose this Bill and the Resolution as well, because this is a piece of legislation which is going to take away the rights from the working class on the one hand, and giving benefits and

concessions to the industrialists, on the other. And I have already stated that despite this Act, because you have got the majority you may get it passed, but as yesterday the working class of our people put it into the dust-bin by going on strikes after strikes, similarly tomorrow, even after you pass it by the majority of votes, the working class of our country will render it a piece of paper and throw it into the dustbin. I thank you.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Mr. Salve.

SHRI N.K.P. SALVE (Maharashtra): Mr. Vice-Chairman, I rise to support the Bill under discussion. In view of the rather reckless motives which have been imputed to our bringing forward this enactment by Shri Dipen Ghosh and the wild allegations that he has made, I think it is absolutely essential that I better clarify my own position and the position of my party, so far as the workers' right to strike is concerned.

The entire theme and the gravamen of the charge, so far as this enactment is concerned, of the Opposition has been that we, on the one hand, are denying the workers their invaluable right to strike, which is an important right of the workers in any civilized society, on the other hand, we are extending concessions to multinationals, industrialists, MRTP people and the private sector. In other words, we are imposing restrictions on that sector of the society which needs these rights, and on the other hand, we are trying to help the private sector. In this context, Sir, it is absolutely necessary that I must make it clear that personally, so far as I am concerned, I accept without the slightest reservation, that the right to strike of a worker is an invaluable right, and that right in the civilized society, wherever it is, has to be utilized against the employers to ensure that the employers do not exploit the employees. But in his oration Mr. Dipen Ghosh naturally seems to have forgotten the entire scope and ambit of the enactment itself. This

enactment has nothing to do whatsoever with the alleged concessions that have been given to the private parties, to the private sector, to the mutlina-tionals, or to the industrialists, number one. No. 2, he asked whether or not the right to strike is a fundamental right. I can refer him to a number of authorities not only in our country but all over, wherever there is a right to strike, it is admitted—of course in the country of his admiration and, on the contrary, to which system he is much higher obliged—there if you talk like that that we shall continue to strike and continue to strike, the jackboot of the police would have sent them to jail or to Siberia. (*IntaTaj.Vons*)\*

SHRI NIRMAL CHATTERJEE (West Bengal): May I inform the hon. Member that in that country, which he is referring to, there was a debate whether or not the right to strike should remain on the Statute Book. The emphatic answer o.f the leaders of the working class was that that right is invaluable and will remain on the Statute Book.

SHRI N.K.P. SALVE: I do not have adequate time to give illustrations, but Mr. Nirmal Chatterjee would do well to appreciate that he is not the only one who has been closely associated with these countries. We have known the working in those countries very well and we do know what happens and we know the hiatus that exists between whit is written in the statute and what is the real state of affairs. But I am not on that question. I am on something else. I do say that it is an invaluable right in a civilised society But there is not a single co,untry which has accepted the right to strike as a fundamental right or as an inalienable right. In India, this question has been considered times out of number by the Supreme Court. The Supreme Court many times, has been far more touchy and sensitive on this aspect. You will know. Sir, because you are a lawyer.

DR. SHANTI G. PATEL (Maharashtra): Sir,...

SHRI N.K.P. SALVE; You are wasting my time. (ZnteTitptioiu)

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' THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Mr. Patel.

DR. SHANTI G. PATEL: I don't want to interrupt. But the Freedom of Association Committee of ILO has already said that it is a fundamental right. It is for your information and you may comment.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): This is no point of order.

SHRI NIRMAL CHATTERJEE: These interruptions brighten the image of Parliament and they should not be objected to. Mr. Salve also exercises his right to reply.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): If we go on discussing these things this way we cannot conclude the Bill today.

SHRI N.K.P. SALVE: Fundamental right is a certain legal conceptualism. So far as we in India are concerned, fundamental rights are those which are enumerated and enshrined in our Constitution. If Mr. Dipen Ghosh wanted to ask me whether or not it is a fundamental right recognised by the ILO, my answer might be different. But his question to me was, with reference to my forensic background, whether it is not a fundamental right. It is not a fundamental right not only in India. It is not a fundamental right in any civilised society, anywhere where democracy is practised. None of the Constitutions accept the right to strike as a fundamental right. It cannot be accepted as a fundamental right and there are very good reasons for it. It IS an invaluable right. So far as this enactment is concerned, before imputing these motives to us recklessly, kindly go into the ambit, kindly go into the area into which this law operates. Does it, in any manner go to liberalise the supposed concessions which we have given in our

[Shri N. K. P. Salve] economic policy? The allegation is that because we have liberalised our economic policy on the one side in favour of these multi-nationals and the private sector, on the other side we feel compelled to stifle and muzzle the working class. I do not understand the reason. If you are decrying and criticising, and very rightly, the closures and lock-outs—we also do not want closures and lock-outs—I am unable to understand the rationale and logic. If lock-outs and closures are unjustified, how is the strike justified. The strike is justified if it is against oppression, if it is against redressal of grievances and if it is against the employers' injustice to them, if that does not involve the large interests of the community as such. A strike which is going to bring about a disruption in the entire existence of the society as such and which is going to cause very serious problems to those who are the poorest of the poor and who are more under-privileged than anybody else. *cannot* be justified. The essential services are meant for everybody. I do not have any doubt about it in my mind. If there is water strike, I and you may be able to arrange water and Mr. Nirmal Chatterjee may be able to arrange water. But how is a poor man who cannot afford to buy a pitcher, going to get water unless the tap keeps running. If the Government says that strike will not be allowed in an industry which is likely to *threaten the* smooth working of the community as such, all sorts of motives are imputed. How does, within the ambit of law....

SHRI NIRMAL CHATTERJEE: For pour information, whenever general strikes are declared the working class is particular in not including water supply or such supplies. I think, you are aware of it.

SHRI N. K. P. SALVE: In that case, if they are so considerate, the Act will be an Act which will only embellish the statute books and a strikes will lever take place and we will not have

I'to invoke the penal provisions of this I enactmenl. What has happened. Sir? ,f (Interruptions) I

? THE VICE-CM AIRMAN (SHRI PAWAN KUMAR BANSAL): Please let him continue.

SHRI N. K. P. SALVE: You are breaking my thread. Sir, the basic question is this. Sometimes the working class get excited, and they are incited by the political parties who are out to aggrandize their own interests and feather their own nests. Unfortunate part is that they (jet the working class to go on strike in areas where the strike is absolutely unjustified wholly unwarranted and which is detrimental to the very existence of the community as such. Under those circumstances, if the strike were to take place, is the provision of the Act something which is draconian, is it denuding the workers of their own right? In fact, what is being assured is that there is a certain degree of discipline which must be enforce on the employees. These is a certain obligation attached not only to the employees, not only to the job they are doing, but also to the community where you are living in. And if the community is to get into disarray, to get into some sort of disruption only because certain grievances—however legitimate their grievances might be—have to be redressed, then it must be submitted that such acts are wholly anti-social, unwarranted, and detrimental to the larger interests. And where they are detrimental to the larger interests, and If they want to have an objective debate, let us come to it. What is the real motive? If one were to look at Sir, Sub-clause 17 of Sub-section I of Section 2. one will get a better idea as to, what the motive behind the Bill is. This subclause deals with what the essential services are to which this Act will apply. And this Cl. (xvii) is a residuary clause—such of the services which are not included in <i>i) to (16) are included in. Cl. (xvii) And which are these services that are considered essential to which this enactment will apply, te

which these curbs and prohibition will apply? I am reading this to show what the real motive of the Bill is, what is the pith and substance of this Bill. It is in the essential services. "The strikes which are sought to be curbed are those" as would prejudicially affect the maintenance of public utility service, maintenance of public safety, maintenance of civil supplies and services necessary for the life of the community or would result...."

SHRI CHATURANAN MISHRA (Bihar): All these have been given in the Act itself. He is a lawyer. (*Interruptions*).

श्री एन० के० पी० सत्ये : मान्यवर,  
मेरा आघे से अधिक समय तो विरोधी  
दल वालों ने ले लिया है... (व्यवधान)

"...or would result in {the infliction of great hardship to the community." I would like to ask whether any of these five tests which have been laid down would not conform to governing a civilised society which wants to remain civilised? Are these not restrictions which would be acceptable to, any civilised society or the Constitution of any civilised country which should be very vigilant, which should be very strict where an enactment is made in pursuance of a police power? This is, of course, in pursuance of a police force of a State and a curb is sought to be imposed on an invaluable right. But, Sir, I was reading some of the judgments of various Supreme Courts of different countries where this right to strike is considered sacrosanct. They have stated that wherever enactments are made in pursuance of the police powers of the State, then they must abide by certain cardinal principles of reasonableness of legislation. They must answer in the affirmative four questions without necessitating a controversial argument.

And the four questions are: (1) Is it in public interest? (2) Is it for public purpose? (3) Is it for public welfare? (4) Is it necessary to achieve the ob-

jectives of the legislature and is not arbitrary, unreasonable or oppressive? If it fails in any of these four tests; is not in public interest or public welfare or is tendentious, then it must fail. But if all these four questions are answered in the affirmative, which the main enactment answers, then I am unable to understand why irrelevant considerations are brought in when limited services, which are essential services necessary to ensure that the community life is not disturbed, it is not put in disarray and it does not lead to \* chaos and anarchy, are prohibited from going on strike. I fail to understand how are the issues raised by Mr. Dipen Ghosh which are utterly irrelevant. However, improper economic policies may be, however true he may be in making allegations of concessions to multi-nationals etc., what I want to understand is, has he made a single good point on the merits of the Bill which will show that the Bill constitutes an unnecessary curb, an arbitrary curb or an oppressive curb on the working class? One single instance as has not been given that certain services need not be included in the essential services because it would mean an unnecessary curb, because it would mean an oppression on the working class. Without going into the merits of the provisions of the Bill, to recklessly call it anti-labour, to call it a denial of their right to strike. I submit, is plenty of political skulduggery. My submission, Sir, is that we are not happy that this enactment had to be brought on the statute book. (*Tune Bell rings, (Interruptions)*)

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): Please let him continue. We won't be able to c-wiude Mr. Nirmal Chatterjee. (*Interruptions*) In this way a lot of time would be taken on this.

SHRI VITHALRAO MADHAVRAO i JADHAV (Maharashtra): Sir, he should not disturb like this.



SHRI K. MOHANAN (Kerala): This is not disturbance. This is a parliamentary practice everywhere when we are discussing a matter.

THE VICE-CHAIRMAN (SHRI PAWAN KUMAR BANSAL): I did not give a ruling on that.

SHRI K. MOHANAN: If he is yielding, then it is all right.

SHRI N. K. P. SALVE: I reiterate that not a single argument has been advanced on the merits of the Bill which will show that this is an unnecessary, undue impairment.....

SHRI K. MOHANAN: Did you say social welfare act?

SHRI N. K. P. SALVE: We may agree to disagree, but let us have rationale arguments and reason. True, it does not suit many in their home grounds. We are open so far as the right to strike is concerned. We stand by it. We do not want that invaluable right to be over-taken away. But here are the essential services and he has enumerated the circumstances in 1980-81. What happened? What do you think of the locoman's strike? What do you think of the strike in the public sector undertakings in Bangalore, which was going to disrupt the entire life and living of Bangalore and the region round about it. You are rightly criticising the lockouts. You are rightly criticising the closure. How are you upholding the right to strike under the circumstances in which this enactment has been made and stated by the Home Minister and this is for the consumption of Mr. Nirmal Chatterjee? We must see that the essential services are uninterrupted because where-ever there is trouble, the people most adversely affected are the ones who have no means to live, and to protect their interests is not only the right but the duty of this House and the duty is being performed. I would like to ask only one question, namely, that if ever a strike is allowed in these essential services, is it not

going to affect the poorest of the poor before it affects any of the Members of this party or that party, or any of the affluent or the rich? The community does not comprise of the affluent and the rich only. A vast majority of them are the people who need protection and it is for their protection, after what we saw in 1980-81. that this enactment was made. It is unfortunate that that it has to be extended. We would never want it to be put on the statute book. But if the circumstances do warrant, this House will be failing in its duty to protect those who have sent them here to protect their interests.

Now, the concluding point. Let them make out a case. Let them deal with the merits of the Bill. We ourselves fought in the party to make out a case that this is unnecessary, oppressive, unwarranted curb on the right to strike. The right to strike may be invaluable but what is paramount is the interest of the community, the interest of the nation, and the interests of those who have sent us here to protect their interests, and that is why I support this Bill wholly. Thank you.

SHRI R. MOHANARANGAM (Tamil Nadu). Mr. Vice-Chairman, especially after being given the opportunity to listen to the speech of our friend, Mr. Salve, who has the capacity of twisting anything and even if he takes a very bad case, because of the gift of his cap, he will make others to believe that what he says is correct. I would put forth my viewpoint.

I have been very carefully listening to the speeches of Mr. Salve. When he was in opposition party, he argued a certain case and when he has entered the Treasury Benches, if he is given the same very topic, he would give a different version and that will be so nice to listen. Sir, Mr. Salve has made a beautiful and an excellent point. My friend Communist Party leader has given also

some good point as to why then should not be any Bill like this her< introduced at this stage. As far as my position is concerned, I have to go through both the things...

SHRI K. MOHANAN: Very difficult for you.

SHRI R. MOHANARANGAM: No, there is no difficulty for politicians that we know. We can solve these difficulties, when we have entered into politics. We face all sorts of difficulties and we are in a position to solve them according to our whims and fancies.

This Essential Services Bill is introduced now. Before dealing with various aspects of it, I would like to ask a few questions. What exactly is the relationship between the management and workers? I am not only a politician; I hope Mr. Chatterjee knows that I am also a trade-unionist. I am a trade union leader of two important very big organisations at Madras where I was responsible for conducting a strike which lasted nearly 2 to 3 weeks where I have gained so many things for the betterment for 400 employees. And again I was responsible for conducting another strike in another concern where that gentleman, without intimating me, closed his organisation.

. So, two different versions were there. But as far as these things are concerned, after seeing especially the B&C Mills at Madras, and aeronautics organisation at Bangalore, and that too, after seeing the after-effects of the strike, I came to the conclusion that supporting this Bill is essential at this stage. It is not my intention to just bring all the employees of different organisations, whether it is public undertaking or private organisation, under this Bill. But considering the unemployment problem, considering economic development of the country, the economic backwardness of the country,

unless and until give way for management, considering the problems, that the management is correct in its attitude, we cannot develop our country like other developed countries and other European countries. That is the main reason why I support this Bill I have seen so many institutions in my State especially after the strike when a company was closed for more than 2-1/2 years, and I have seen how families suffered, how more than a lakh of people suffered for more than a year, in one B&C Mills. And my personal opinion is that trade unions are responsible for creating all these complications unless and until one trade union served a particular organisation. Even our political manifesto in my political party mentioned it clearly that there should be only one union because if you have so many political unions, because of the political influences that they have even other unions and organisations do not come forward to join them.

Therefore, with regard to the first item of the Bill, I wholeheartedly support, considering that management will be a perfect one and considering that all the facilities will be extended to the employees of public undertakings and organisations. With regard to uranium industry to be included as essential service, we have got only Jaduguda mines of Uranium Corporation of India Ltd. They only one for nuclear power project of the country. If it is closed, if it is not worked, if it is not worked to its capacity, we would not be in a position to get the fuel for nuclear power production. Therefore, this should be included in this; this should be declared an essential service. Considering all these factors, I support the Bill

श्री धूलेश्वर मोणा (राजस्थान) :  
माननीय उपसभाध्यक्ष जी, मैं इस अमेन्डमेंट  
सर्विसेज मेंटेनेन्स (अमेन्डमेंट) बिल, 1985  
का समर्थन करने के लिए खड़ा हुआ  
हूँ। मैंने अपने पूर्ववक्ता विद्वान साधियों  
को सुना। मैं इस नतीजे पर पहुँचा हूँ

[श्री घुलेश्वर मीणा]

कि इस प्रकार के बिल का विरोधी पार्टी विरोध करते हैं खास करके अभी मोहनरंगम जी इसको सपोर्ट किया और इसी प्रकार से तहदिल से अगर उन्हें पूछा जाए, तो इस बिल का सभी लोग समर्थन करने के तैयार हैं। इस एक्ट में खास करके कुछ ही प्वाइंट्स को लेकर खास करके कार-खाने, फैक्ट्रीज में बर्क करने वाले वर्कर्स को और लेबर की बात को लेकर उनके ऊपर यह डिबेट चलती है, उस पर बहस होती है, उस पर ज्यादा ध्यान—लेकिन इस बिल को जब 1981 में पास किया था, उस समय इसमें बहुत सारी चीजों का मिश्रण था। सब से पहले जैसे पोस्टल सर्विसेज हुए, टेलीग्राम और टेलीफॉन्स और इस प्रकार के इससे संबंधित अन्य कई एक बातों का इसमें सम्मिश्रण था।

[उपसभाध्यक्षा (श्रीमती कनक मुखर्जी)  
पीठार्पण हुई]

railway service, transport service, carriage of passengers aerodrome, aircraft repairs, maintenance of major ports, loading and unloading, defence service, water supply, hospitals, dispensaries, banking service, supply and distribution of coal, steel and fertilisers, any other service in oilfield, fertilisers and petroleum, security, elections to Parliament and Legislatures of the State.

इस प्रकार की कई बातों को लेकर यह बिल एक एक्ट के रूप में आया। अब हमारे विरोधी भाई इस बात का विरोध करते हैं कि इस बिल को जैसा कि अभी घोष साहब बोल रहे थे, यह न्यूक एक्ट है, काला कानून है। काला कानून किसके लिए? काला कानून उस रूप में उसे मान सकते हैं जब कि किसी की ज़िम्मेदारी के ऊपर, किसी के व्यवसाय के ऊपर कुठाराघात हो, इस प्रकार का नुकसान पहुंचाने वाला कानून हो, तो उस आप काला कानून कह सकते हैं। लेकिन इस प्रकार के कानून से—मैं उसके पहले, मंडम, मापका और हाऊस का ध्यान इस ओर ले जाना चाहता हूँ कि 1981 में

जब यह कानून बना था, उससे पहले इस देश में क्या क्या गड़बड़ियाँ नहीं हुई? कहां-कहां हड़तालें नहीं हुई? आप देख लीजिए, रेलवे में हड़ताल चल रही है, बैंकों में हड़तालें चल रही हैं पोस्ट एन्ड टेलीग्राफ में हड़तालें चल रही हैं और जितनी भी असेसियल सर्विसेज थीं, सब में हड़तालें चलने लगीं और यही कारण था, यही एक बात थी जो सरकार के ध्यान में आई और सरकार को मजबूर होकर यह कदम उठाना पड़ा और उसके बाद मैं आप देखिये कितना देश की अर्थ-व्यवस्था में सुधार आया, कितना देश के कार्य-कानून सब ठीक ढंग से चलने लगे। इसी लिए इस कानून को लाना पड़ा।

आज आप देखिये, फैक्ट्रीज में काम करने वाली लेबर का सवाल है, आधे दिन हड़ताल करते हैं और हड़ताल कौन करता है? काला कानून जो आप कहते हैं, वह है किमके लिये? काला कानून आप कह सकते हैं, आप और हम जैसे और खास करके जो लेबर लीडर अपन आपको मानते हैं, जो लेबर के नेता अपने आपको कहते हैं, उन लोगों के लिये काला कानून है क्योंकि एक तरफ यह नेता उन मजदूरों को जाकर बहकते हैं कि तुम्हारे लिये मेनेजमेंट उलटा-सोधा पोशीदा काम करता है और इधर आकर मेनेजमेंट से बात करते हैं कि अमुक-अमुक वर्कर्स काम नहीं करते हैं या ठीक ढंग से काम नहीं करते हैं। इस प्रकार की बातें लेकर सब यहां आगे आते हैं और अपना उल्लू सोधा करते हैं, अपने आपको दोनों के बीच में कड़ी बना कर के नेतागिरी करते रहते हैं। मैं मानता हूँ उन

3.00 P.M. लोगों के लिये यह जहर काला कानून है, वही देश के अन्दर चाहे लेबर क्लास हो, चाहे मजदूर हों, और चाहे कोई भी श्रेणी हो, इस आजाद देश में हर कोई काम करने को तैयार है अगर उसे ठीक ढंग से रास्ता दिखाया जाये। तो मैं आपसे निवेदन करूंगा कि इस प्रकार की बहकी हुई बातें, इस प्रकार के देश के उत्थान के लिये होने वाले कानून के खिलाफ आप लोग मत कहें। उस पक्ष और ट्रेजरी बेंच के सदस्यों ने भी बार-बार कहा है कि देश के वर्तमान प्रधान मंत्री ही नहीं बल्कि देश की जो पहले प्रधान मंत्री थीं

उन्होंने भी समय-समय पर विरोधी पार्टियाँ का समर्थन लिया और अपने पृष्ठ पर काम किया है और जो कुछ भी कायदे-कानून बनाये जाते हैं आप लोगों की राय से देश के हित में, देश के विकास के लिये बनाये जाते हैं। आज हमारा देश एक विकासशील देश है। इस देश में इस प्रकार से अगर गड़बड़ी करते रहे तो देश की अर्थ व्यवस्था बिल्कुल ही खत्म हो जायेगी। मैडन मैं आपके माध्यम से हाउस का ध्यान उस ओर दिलाना चाहता हूँ कि कुछ ऐसे कारखानों में हड़तालें कराई जाती हैं, लाक आउट कराया जाता है या ले आफ कराया जाता है, इसमें कुछ मैनेजमेंट की भी गलती है। आप रिकार्ड उठाकर देख लीजिये कई एक जगह पर कई एक कंपनियों में, मेरे पास दो-तीन कंपनियों के नाम भी लिखे हुये हैं, उदाहरण के लिये मैसर्स डब्ल्यू० जी० फार्ज० एंड कम्पनी, जो डिफेंस प्रोडक्शन का काम करती है, आज उन्होंने 40 करोड़ रुपये का बिजली का बिल अदा नहीं किया है। उसी प्रकार से मैसर्स (श्रीमर डायकेम) और साराभाई कैमिकल्स हैं, इन्होंने भी अपने बिजली के करोड़ों रुपये के बिलों का भुगतान नहीं किया है। ऐसी स्थिति में कारखानों के अन्दर ले आफ कराने का दायित्व किस पर है ? ले आफ ऐसे ही मैनेजमेंट करती है, हड़ताल नेता कराते हैं और लाक आउट मजदूर कभी-कभी कर भी लेते हैं। जहाँ तक मजदूरों के हितों का सवाल है, सरकार ने कई एक कोर्ट्स बनाये हैं, अपील कोर्ट्स भी बनाये हैं। लेकिन मैं सरकार का ध्यान इस ओर आकर्षित करूँगा कि लेबर की श्रमिकों की भलाई का ख्याल रखते हुये उनको और भी कुछ सुविधायें दी जानी चाहिये। आये दिन हड़तालें होती हैं। लेकिन हड़तालें कुछ मांगों को लेकर होती हैं और कुछ मांगों को लेकर छोटी-मोटी बातों को लेकर अगर झगड़ा खड़ा कर दिया जाय तो उससे बहुत बड़ा नुकसान होता है। इसलिये सरकार का ध्यान इस ओर आकर्षित करना चाहता हूँ कि इस प्रकार के छोटे-मोटे कोर्ट्स जरूर बनें लेकिन उनको इस प्रकार की लम्बे प्रोसीजर में जाने की दिक्कत आये तो ऐसा कोई कानून आप नहीं बनायें। मैडम, हमारे विरोधी भाई इस कानून के तहत कहते हैं कि इससे मजदूरों के फंडामेंटल

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राइट्स पर आघात होता है। फंडामेंटल राइट्स उसी को दिये जाते हैं जिसको पहले काम करने की सुविधा दी जाती है। तो काम करने का अधिकार हम लोगों को है और हमें काम करना है और अगर काम करेंगे तो हमारा अधिकार भी है। लेकिन अगर काम नहीं करेंगे तो देश में उत्पादन ही नहीं बढ़ायेगा, आये दिन हड़तालें करते रहें और काम पर नहीं आयें, ड्यूटी पर नहीं जायें, तार या डाक समय पर नहीं बंदे, रेल टाईम पर नहीं चले, या हमारे पोर्ट्स पर सामान को उतारा नहीं जाये सामान को लोड या अनलोड नहीं किया जाये, इस प्रकार की इसेंशियल सर्विसेज जो कि इंसान के लिये, आदमी के लिये निहायत जरूरी चीजें हैं, उनको बरकरार करने के लिये हमें काम करना होगा। इस प्रकार की बातों को ले करके ही इस बिल में पांच साल की अवधि जो बढ़ाने के लिये अमेंडमेंट लाया गया है सरकार के द्वारा, उसका मैं तहेदिल से स्वागत करता हूँ और आशा करता हूँ कि हमारे विरोधी भाई भी इसे सहर्ष स्वीकार करेंगे।

DR. SHANTI G. PATEL: Madam, I rise to oppose this particular Bill. I have been trying to follow the so-called arguments that were sought to be advanced to justify the extension of this old Act. I am very sorry to say that I have failed to come across a single valid argument. When it was introduced for the first time in the year 1981, it was argued that there were some dislocations in what are called "essential services" and that is why the Government was compelled to come forth with this type of legislation. It was pointed out even at that time that though dislocations took place, it was not the worker who was responsible but the management was solely responsible for that state of affairs. I am referring to the Bangalore strike, which again has been repeated by two Members from the opposite side. I would like to repeat what I said at that time that

time that the dispute arose mainly because it was the breach of the agreement on the part of Government and

[Dr. Shanti G. Patel]

that is why the workers were compelled to, resort to strike. In Bangalore it was the public sector enterprise. According to the agreement, the wage rise should have been automatic in a certain industry. It was denied and that is why the whole dislocation took place.

Yet the issue is more fundamental than this. Whether we call it a fundamental right or not, it will depend on the person's own views, particularly if one is politically coloured, but the main issue is whether the workers should have a right to strike. I was trying to follow the speech of my learned friend, Mr. Salve, who is busy now convincing the Home Minister as to why he should withdraw the Bill—I do not know what he is talking about—but anyway what I could not understand was whether he was in favour of the strike or against the strike, because in one breath he said that this right needs to be protected, and in another breath he said, in the public interest this needs to be curbed, or needs to be controlled and even in certain cases completely denied.

SHRI N.K.P. SALVE: I said, the right to strike was surrendered.

DR. SHANTI G. PATEL: I would allow you to interrupt me. I do not mind that.

SHRI CHATURANAN MISHRA: If you so desire, then you sit down and give him the floor.

DR. SHANTI G. PATEL: Madam, what I was submitting was that this right to strike is something the understanding of which depends on the concept that we have regarding industrial relations system and the concept that we have regarding democratic functioning. Has the right to strike

any place in democratic working or not? That is the fundamental issue which we are required to determine. I believe and submit that this is very necessary in a collective bargaining process. It is based ultimately on what is called the conflict of interests. In an industrial society, conflict of interests between the employer and the employee—whether the employer is public sector or private sector is a different matter—is there; there can be genuine honest differences of opinion on the demands that are under discussion. The workers may legitimately, rightly, honestly feel that they should resort to a strike. In these circumstances why should this right be denied to them? This is something which has been, as I said when my friend was speaking, said by JLO. It is not just me alone. The ILO has representatives of three parties and one of the parties is the Government. This very Government is a party to what has been adopted in the form of conventions or recommendations in this particular forum. There is a Special Committee which goes into the various conventions, particularly about implementation. They have said in clear-cut terms—I have quoted it; I do not want to take the time of the House again to quote it—that this is a fundamental right. No collective bargaining process can take place, the workers cannot safeguard their occupational interests unless this right is given otherwise they will be just on the side which will be beaten from time to time. So, it is very necessary to give this.

It appears from the speeches that, I was hearing, that workers have some pleasure or fun in resorting to strike. Let me disabuse their minds and tell them that this is something which brings privation and hardship to the worker. But still, if he resorts to it, he resorts to it because he has no other alternative left but to resort to this particular method to get his grievances mitigated.

I would also like to refer to another aspect as to why you should not go in for this decision. Are there not sufficient provisions to prohibit strikes if ever they take place in the public utility services or, what is called, essential services? For this there is the Industrial Disputes Act. Therein there is a provision that before the workers resort to a strike there has to be a notice and a certain period has been prescribed. Even after that the workers cannot resort to strike because the matter is sought to be referred to an Industrial court. Prior to that and thereafter any strike will be illegal. But there is a difference between the legislation which is sought to be extended and the legislation which exists even now—and which existed prior to the enactment of this particular law—and which says that in case of denial of this particular right to strike, there will be an alternative forum which will be open to you where you can go and set your grievances redressed. Here it does not exist. Here the forum is dismissal, imprisonment—even up to one year—either for so-called inciting or appealing to workers to resort to strike. This is not a labour or welfare legislation. I may respectfully submit that this is a criminal legislation, where workers are sought to be treated as criminals and not as—as the party in power says day in and day out—workers who will be participating in management. They are talking of workers' participation in management but here they are not participants in the running of an industry they are sought to be treated here as criminals. That is what we object to. An ordinary police officer, merely on suspicion—mind you, on mere suspicion—can arrest a worker without a warrant. These are the powers given under this Act. That is why we are opposed to it.

One can have two views on whether workers should resort to strike. I am not one of those who would like to resort to strike day in and day out.

I believe, as Gandhiji had said, that strike is the last weapon in the armoury of the workers. It has to be resorted to with all sense of responsibility. But, that doesn't mean that the right to strike should be taken away because a strike must be resorted to in certain circumstances which may not be proper, in the best way is to educate the workers, to make them understand what is good and what is bad—to create that particular atmosphere. I would again appeal to friends who talk in terms of Nehru culture to think more. What was Nehru culture? Nehru culture was not to go with danda or imprisonment. He called people, had a dialogue with them and came to an understanding. I would remind them that he was the person who, as the Prime Minister, invited labour leaders and said, let us have a moratorium on strikes. It is possible. If you trust the workers, the workers will respond but, if you just consider them as criminals. I am sorry, there cannot be the expected response from these people. So, I would say, there are sufficient provisions in the Industrial Disputes Act to prohibit strikes—if the Government is interested in doing it.

Madam Vice-Chairman, here I would like to submit that the word 'essential' is a misnomer. Anything is essential under this Act. If the Government should consider it expedient in the "public interest" to call it essential, it just becomes essential. Madam, I can submit, a sugar factory can become essential because there are various provisions in the law which say that on a matter in which Parliament has power to pass a law, any service—in a number of industries mentioned under, what is called, the Industries (Regulation and Development) Act—can be declared essential. Then what is left out? May I know from the Home Minister what is left out? Anything can be considered as essential. Then, as the saying goes, "Give a dog bad name and hang it." That is the way they want to do it.

[Dr. Shanti G. Patel]

The Labour Ministry has always been opposed to this—4 can say this without any fear of contradiction—right from the beginning. Let their files be made open and brought for inspection. As far as the passing of this law is concerned, when it was brought in 1981, the Labour Ministry was supposed to it—and it was a Ministry headed by persons belonging to the same party. The only purpose is to create an atmosphere of fear and terror in the country, and to browbeat the workers. But the workers are not going to be browbeaten in this particular manner. This law is also unfair and inequitable.

They have said: "All right, for lay offs and lock-outs we do apply this particular law." As the Times of India survey of 1984 clearly shows, more mandays are being lost due to lock-outs and less due to strike. The percentages are going up as far as lock-outs are concerned. I know, they say, they are not essential. But if they want to declare them essential. It is possible for them to declare them essential. Let us see; Are closures prohibited? Is a person who closes his undertaking to be imprisoned for a year? No. Under this particular law he is free to do as he likes to do. Not only that, but there are employers who do not pay their provident fund contributions. These are infringements which need to be dealt with severely. There are 'employers who do not pay the minimum wages. There are employers who employ contract labour. Instead of removing these maladies from the society, the antisocial habits of the people, they are trying to penalise the workers. That is how (hey want to keep the wheels of production moving.

This J 3 not the way. I do not think you can achieve the purpose by doing this, yo 1 can make a worker remain present in the factory, but you cannot make him produce what he must

and what he can. That can only be done if you trust the worker and create an atmosphere, a congenial atmosphere for this particular purpose.

Lastly, while concluding, I would again refer to the right to strike. As I said earlier, the right to strike is a thing which was not only conceded by the ILO Committee but also by our own Commission, National Commission on Labour, the Gajendra-gadkar Commission. This was the only Commission of this type appointed in the post-independence era. They also in so many words have conceded this particular right of workers to strike. I would not like to quote. I have referred to it in the past. I would say that this is something which has been considered and conceded by a very important body, an expert in this particular way.

I would, therefore, still plead even at this late stage. Let us have a reasonable way, a democratic way, of handling the industrial relations and not behave in a criminal way. Otherwise, what is sought to be achieved is lost, and we may not be able to achieve our goal.

I have done.

श्री सुखदेव प्रसाद (उत्तर प्रदेश) :  
मैडम डिपुटी चैयरमैन, मैंने अपने साथियों के विचार सुने। हमारे होम मिनिस्टर साहब जी एसेशियल सर्विसेज (अमैडमेंट) बिल लाए हैं मैं उसका तहे दिल से समर्थन करता हूँ। हड़ताल का अधिकार मानव अधिकार माना गया है, लेकिन जैसा कि हमारे बहुत से साथी कह रहे हैं यह उनका जन्मसिद्ध अधिकार है, मैं इस से कतई सहमत नहीं हूँ। हड़ताल के बारे में एक बात मैं सही मानता हूँ कि जहाँ पर मिल के मालिक या सरकार मजदूरों की मांगों को नहीं मानते, उनकी जायज मांगों को नहीं मानते, वहाँ यदि वे हड़ताल करते हैं तो बात ठीक है, लेकिन मैंने यह देखा है कि आज हमारे यहाँ इतनी यूनियने

बन चुकी हैं चाहे वह आई०एन०टी०यू० सी० हो, ए०आई०टी०यू०सी० हो, हिन्द मजदूर सभा हो या कोई और हो, ये सब एक दूसरे की राइवेलरी में एक दूसरे से बढ़ कर मांगें रखती हैं और मांगें रख कर हड़ताल कराती हैं। इसका औचित्य मैं नहीं समझ पाता। इसी तरीके से मुल्क के अंदर तमाम प्रोडक्शन डिस्टर्ब होता है।

मैं और बातों की ओर न जाकर एक चीज की ओर आपका ध्यान दिलाना, चाहता हूँ। जब हिन्दुस्तान और चीन की बात चल रही थी, हमारी रेलवे की सर्विसेज, एसेंसियल सर्विसेज थीं। लेकिन क्या आप सोच सकते हैं कि उस समय भी उसमें हड़ताल कराने की बात सोची जा सकती थी। लेकिन हमारे इन विरोधी पार्टियों के नेताओं ने मिलकर रेलवे में उस समय भी हड़ताल करा दी जब कि हमारे यौद्धा मोर्चे पर कूद रहे थे और ये हड़ताल करवा रहे थे। उस समय गोविन्द वल्लभ पन्त जी होम मिनिस्टर थे। फिर भी ये कहते हैं कि हड़ताल करना हमारा जन्मसिद्ध अधिकार है। आपको दूसरा इन्स्टांस मैं देना चाहता हूँ। अभी बम्बई में कपड़ा मिलों की हड़ताल हुई मजदूरों के अधिकारों को लेकर एक लंबी हड़ताल मिलों में कराई गई जो कई महीनों तक चली और मिलें बन्द रहीं। क्या यह मुल्क के साथ विश्वासघात नहीं था? वहाँ पर मजदूरों ने तोड़फोड़ की और कोई चारा नहीं रहा तो मिल वालों ने लाक आउट कर दिया। लेकिन इस तरह की चीजें मुल्क के लिए हँल्दी सिस्टम नहीं हैं। मैं ऐसा मानता हूँ कि आप हड़ताल करायें, लेकिन मुल्क को भी देखें, काम को भी देखें, मुल्क की बहबूदी को भी देखें। आज जिन जिन चीजों को लेकर आप छोटी यूनियन बनाते हैं, कहीं पर जाकर सेंट्रल सर्विसेज में भी, सप्लाय में भी हड़ताल करा देते हैं, बिजली की सप्लाय में हड़ताल करा देते हैं, कहीं दूसरी चीजों की हड़ताल करा देते हैं और लोगों का तमाम कारोबार ठप्प हो जाता है, तो क्या यह ठीक है मुल्क के लिए? हड़ताल का औचित्य तो ठीक है, लेकिन आप जो हमारी ऐसे एसेंसियल सर्विसेज में हड़ताल करा देते हैं तो पूरा मुल्क

उससे एफेक्ट होता है जिसका नतीजा यह होता है कि देश की इकानामी एक तरह से बरबाद हो जाती है।

मैं इन शब्दों के साथ इस बिल का समर्थन करता हूँ और मैं समझता हूँ कि यह जो बिल आया है 5 साल के लिए, इसका औचित्य है और इसका हम सब को समर्थन मिलकर करना चाहिए।

श्री शंकर सिंह वाघेला (गुजरात) : मैडम वाईस चेयरमैन, मैं इस बिल का विरोध करने के लिए खड़ा हुआ हूँ। अच्छा होता आप ऐसे बिल को पास न करते। चार साल पहले जो हुआ, चार साल के बाद फिर 5 साल के लिए आप फिर ऐसा बिल पास कर मजदूरों को गुलाम बना रहे हैं। आपने कभी चार साल का जायजा लिया? 1981 में जो परिस्थिति थी, उस समय जो ऐक्ट लाए, इसके बाद 1985 में फिर से उसकी अवधि बढ़ा रहे हैं, फिर आप 5 साल के लिए उसको रखने जा रहे हैं। तो फिर पिछले 4 साल में क्या हुआ? 1981 के पहले जो प्रोडक्शन था, जो स्ट्राइक्स थी, जो लाक-आउट्स थे, जितने श्रम दिनों का नुकसान होता था, इसकी तुलना में 1981-85 के आंकड़े देखें, हमारे मित्र श्री दीपेन घोष ने आपको आंकड़े दिए, उनमें अगर आप देखते तो आपके कानून की वजह से आपका प्रोडक्शन बढ़ा है, 1981 से पहले प्रोडक्शन कम था, इस बिल से बढ़ा है, तो मैं इस बात से सहमत नहीं हूँ। आप देश की इकानामिक समीक्षा पेश करते हैं तो कहते हैं कि देश में आर्थिक सुदृढ़ता बढ़ती जा रही है, प्रोडक्शन बढ़ता है। किसकी वजह से प्रोडक्शन बढ़ता है? कौन काम करने के लिए जाता है। इसके लिए खून पसीना कौन बहाता है। आप कहते हैं प्रोडक्शन बढ़ता है तो फिर ऐसी परिस्थिति कहाँ पैदा हुई है कि फिर भी आपने यह बिल लाकर मजदूरों को, कर्मचारियों को गुलाम बनाना पड़ रहा है। इस बिल को पास करके आपको प्रोडक्शन को रोकना है क्या? चार साल में 1981-85 के बीच माननीय गृह मंत्री जी आप तो महाराष्ट्र के हैं, क्या हुआ महाराष्ट्र में? कितने मजदूर बेकारी



[श्री शंकर सिंह बाघेला]

में मारे गए, कितने मजदूर वहां की टेक्सटाइल मिलों में बेकार रहे? कितने मजदूर और कितनी बहनों ने बेकार की, कितनों ने अपने शरीर बेचकर हर रोज का खाना पूरा किया? आपने हल निकाला तो वह भी पोलिटिकल। इसमें इलेक्शन ओरियेंटेड पालसी थी, कोई मजदूरों के हितों को सामने रखकर आपने हल नहीं निकाला।

माननीय गृह मंत्री जी आपने थ्री-डी फिल्म देखी होगी इसमें पिस्टल, रिवालवर दर्शक के सामने उसके सीने पर आता है ऐसा लगता है। लेकिन पहली दफा अगर सीने पर आती है तो दर्शक डर जाता है, क्षिप्तता है। जब बार-बार ऐसी चीज आती है तो वह उसकी आदत हो जाती है। वह यह समझता है कि थ्री-डी फिल्म कुछ नहीं है जिस समय इसकी आवश्यकता होती है उस वक्त अगर इसको पूरा नहीं किया जाता तो बाद में इसका कोई फायदा नहीं। अब इतनी देर के बाद इसको फिर पांच साल के लिये बढ़ाते हैं यह शर्म की बात है। कितने ले-अउट हो गये हैं, कितने हमारी हड़ताल हो गई हैं? मैनेजमेंट अपनी फैक्टरी को, अपनी मिल को बीमार घोषित कर देते हैं। मैंने कभी नहीं सुना कि कोई भी मिल मालिक खुद बीमार हुआ हो। कभी मैंने नहीं सुना कोई मिल मालिक इकोनॉमिकली साफ हो गया हो। उसने मजदूरों का ऐसा रोक, प्रोविडेंट फंड नहीं दिया और जो भी पैसा उसके पास था उसको कहीं दूसरी जगह शिफ्ट कर दिया। इस तरह से वह मिल बन्द कर देता है, ले-आउट कर देता है। इस हिसाब से कितनी ही फैक्ट्रियां देश में बीमार हैं। मेरे ख्याल से 80 हजार से ज्यादा फैक्टरीज ऐसी हैं और 80 हजार फैक्टरीज में हमारे सरकारी बैंकों के 3 हजार करोड़ रुपये ब्लाक हो गये हैं। इसके लिए कौन जिम्मेदार हैं? कौन निकालेगा उनसे रुपया? ये मिल-मालिक बीमार नहीं हैं, इन्होंने अपनी मिलों को बीमार कर दिया है और अपने आप सेफ-साइड करके बैठ गये हैं। क्या इनके लिये आपके पास कोई

कानून है? ये जो लोग काम करते हैं ये मारे जाते हैं। ये जो खून पसीना बहा कर काम करते हैं उनके लिये कोई व्यवस्था है आपके पास? ये मिल-मालिक लाखों रुपये अदा नहीं करते। इलेक्ट्रीसिटी के बिल तो लाखों रुपये का होता है वह भी नहीं देते हैं। क्या उनके लिये आपने कभी कहा है कि इनको पेमेंट न करने पर जेल भेज दिया जाएगा। आप एक ही साइड को देखते हैं। दूसरी साइड को भी देखिए। आपको यह मालूम होना चाहिए कि थ्रमिक हड़ताल क्यों करते हैं? कर्म-चारी हड़ताल क्यों करते हैं, वे स्ट्राइक क्यों करते हैं? क्या वह इसलिए करते हैं कि बहुत दिन हुए हड़ताल नहीं हुई इसलिए हड़ताल कर दी जाए। आज मन कर रहा है हड़ताल करने का इस लिए हड़ताल कर दो, झंडा उठा लो और नारे लगा दो या यूनियन के पास कोई काम-काज नहीं है इसलिए वह हड़ताल कराती है। नहीं, इन सब का कारण यह नहीं है। उनको मिनिमम वेज नहीं मिलता। जो मिनिमम वेज एक्ट है उसका इम्प्लीमेंटेशन ठीक से नहीं होता। जो इम्प्लीमेंटेशन एक्ट का होना चाहिए वह नहीं हो। यह भी उनके दिल में रहता है कि उनकी बहुत सी जरूरतों को नहीं माना जाता। वर्कर्स की ग्रीवासेज होती हैं उन ग्रीवासेज को दूर करने के लिए जो कार्रवाई होनी चाहिए वह नहीं होती। आप कानून ला कर उसके ऊपर उल्टे पाबन्दी लगा देते हैं। आपको उनकी जो उचित, न्यायोचित मांगें हैं उनको आपको जरूर मानी माननी चाहिए। आन्दोलन कोई अपराध नहीं है। हर नागरिक का आन्दोलन करने का राइट है, स्ट्राइक करने का राइट है। जो कर्मचारी की दिक्कतें हैं उनको आपको देखना चाहिए। बढ़ते हुए मूल्य उनके सामने हैं, बेकारी है, मुद्रास्फीति इतनी बढ़ गई है कि वह जो कमाता है वह सब खर्च हो जाता है, उससे उसके परिवार का पेट भी नहीं भरता। उसकी यह साइड देखनी चाहिए। उसका मन, उसका शरीर ठीक रहे। जब उसका मन और शरीर ठीक रहेगा तो वह दिल लगा कर काम करेगा और जब दिल लगाकर काम करेगा तो प्रोडक्शन बढ़ेगा। आज मजदूर के चेहरे पर रौतक नहीं है। उसके बदन पर

पूरे कपड़े नहीं है। ठंड में कम्बल नहीं है ओढ़ने के लिये। वह इसी चिन्ता में रहता है कि उसके बीबी बच्चे क्या खाते होंगे, उसके बच्चों की फीस कैसे दी जायगी। जब उसकी ऐसी मनःस्थिति होगी तो वह कैसे काम करेगा। वह कभी अच्छा काम नहीं कर सकता। इन लोगों के बारे में हमें सोचना चाहिए। इनके चेहरे पर कैसे रौनक आए इस पर हमको सोचना होगा। आपको दूसरे विश्वयुद्ध का जमाना याद होगा कि जापान, इजराइल, वेस्ट जर्मनी वहां लेबर की क्या हालत रही।

फैक्टरीज में जो लोग काम करते हैं, वे हमारे लोग हैं, हमारे सिटीजन हैं। आज दुनिया में जर्मनी, जापान और इजराइल किस तरह से नम्बर, 1, 2 या 3 पर आ गये हैं, यह किसी से छिपा हुआ नहीं है। यह प्रधान मंत्री ने या क्विन्ट न नहीं किया है। इसके पीछे लेबर है, श्रमिक हैं और अन्य कर्मचारी हैं। आप यह जो एसोशियल सर्विसेज एक्ट लाये हैं इसका पंशा यह नहीं होना चाहिए कि जो हमारी प्रोडक्शन को बढ़ाता है उसकी किसी तरह रुकावट मिले। सभी श्रमिक हमारे देश के नागरिक हैं। वे यह समझें कि यह फैक्टरी भेरी है, मैं इस देश का नागरिक हूँ। मुझे देश के लिए काम करना है। लेकिन आप तो उसको दुश्मन समझने हैं, आपको वह दुश्मन नजर आता है। आप उसको मित्र की तरह से देखें। ऐसी शिक्षा हमारे देश के नागरिकों को दी जानी चाहिए कि वे सब इस देश के नागरिक हैं। अगर कोई नुकसान होता है तो वह देश को नुकसान होता है। श्रमिक फैक्टरी में जो प्रोडक्शन करता है उसमें उसको भागीदारी मिलनी चाहिए। उसको यह विश्वास हो, भरोसा हो कि जिस फैक्टरी में वह काम करता वह उसकी अपनी फैक्टरी है। अगर आप ऐसी नीवत लाएंगे तो स्ट्राइक होने का कोई सवाल नहीं है। अगर कोई बात होती है तो आप एडमिनिस्ट्रेशन के पास जाते हैं, राज्यों के पास जाते हैं। राज्यों में आपकी सरकारें हैं। उन्होंने सोचा कि हमारी सरकार है, इसको और आगे बढ़ा दो। इस तरह से मजदूरों के साथ आप व्यवहार कर रहे हैं। मैं चाहता हूँ कि

ऐसी स्थिति में एक बोर्ड बने, एक एड-वाइजरी कमेटी बने जिसमें सभी संबंधित लोग हों, जिसमें लेबर के प्रतिनिधि हों, होम मिनिस्ट्री के लोग हों, लेबर मिनिस्ट्री के लोग हों, मैनेजमेंट के लोग हों, जो इन सारी बातों पर ध्यान दें। मैं समझता हूँ कि आपका ध्यान मजदूरों के बचाव की तरफ जाएगा। सन् 1981 के पहले जब यह बिल नहीं था तो क्या होता था? सन् 1976 में रेसवे की हड़ताल हुई तो आपने उसको कैसे कंट्रोल किया? जिन लोगों ने आपका समर्थन किया, सन् 1980 और 1985 में जिन गरीबों, मजदूरों ने आपको वोट दिया उनके लिए ही आप यह कानून ला रहे हैं। आपको यह देखना चाहिए जिन लोगों ने आपका समर्थन किया वे आपके विरुद्ध न हो जायें। मैं समझता हूँ कि यह एक ब्लेक बिल है, काला कानून है जिसमें आम नागरिकों की आजादी को आपने नजर-अन्दाज किया है। इसलिए मैं अपनी पार्टी की तरफ से और अपने दोस्तों की तरफ से इस बिल का विरोध करता हूँ।

SHRI THANGABAALU (Tamil Nadu). Madam, I rise to support this Essential Services Maintenance (Amendment) Bill, 1985 because it is very essential today. This Bill seeks to extend the present Act for another five years. Madam Vice-Chairman, at the very outset I would say that our friends from the Opposition side are not at all justified in their violent outbursts against this Bill because they never think of the country. They never think of the society. They think of themselves only. This is the attitude of the Opposition in this court try today. That is why they have been opposing whatever progressive Bills are being brought in Parliament. If they had cared to find out how many times the provisions of this Act had been invoked during these four years, they would have definitely found that at no time the provisions of the Industrial Disputes Act like collective bargaining, conciliation, adjudication and arbitration have been annulled. Hence there is no question, of fundamental rights of the workers' being

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forfeited even in public interest. It is imperative for the Government to, have adequate power in its hands so that when the nation's interests are mortgaged -or achieving certain sectoral gains, the Government can act with verve and vigour. During 1984 out of the total 410 cases of strike and 100 lockouts, about 355 strikes ended and 59 lockouts lifted as a result of the prompt preventive action taken by both the State and Central Governments. There was marked improvement in the overall industrial relations situation with the number of mandays lost due to strikes and lockouts declining from 31.64 million in 1983 to 22.89 million in 1984 during the period January-September. Our honourable Prime Minister, Shri Rajiv Gandhi has initiated effective measures for ensuring that workers participation in the management becomes a vehicle of transforming the attitude of employers and workers for establishing a "cooperative culture" which will help in building a strong, self-confident and self-reliant country with a stable industrial base. Even the carping critics of the Government cannot controvert the fact that the first General Budget of the new Government is acclaimed as a labour welfare budget. Our friends from the opposition said it is only for the multinationalals, it is only for the vested interests; I would say, they may not accept the concept in which the Prime Minister and the Finance Minister brought forward this budget. They certainly understand it but since they are in the Opposition, they do not want to admit their agreement with the concept and they want to oppose it for the sake of opposition. This is their attitude. But this budget has become the beacon light of heralding a new era of industrial peace and stability to the country today. Our Prime Minister in his first Republic Day speech announced national awards for workers. This is the first time that national awards have been introduced for workers. If the Government is not

interested in the welfare of the workers, he would not have done so. But these factors are not at all taken into consideration by our friends in the Opposition. The Opposition leaders should not see every legislative endeavour of the Government with jaundiced eyes, I would request them to appreciate that the country needs discipline, the country needs more and more effective steps to curb all anomalies so that the country can progress further. It is time that every patriotic Indian should extend wholehearted support to the Government in its commitment in making India secure a pride of place among the comity of nations. It will not be far from the truth if I say that the influence of the Opposition parties particularly centres round the workers in the organised sector only. It is in the interests of the workers in the organised sector that they are not swayed by the short-term gains, they should not become puppets in the hands of the opportunists trade union leaders in our country today. I am sorry to say that one of the self-styled trade union leader in Maharashtra recently has threatened that he will lead the workers to street fights if their fundamental rights are forfeited by this Bill. I am sorry to see the ignorance of the trade union leaders of this country today. Is there any room or place for any such primitive philosophy in a democratic country like ours? There is no place at all. Where is the question of violating the Fundamental Rights of the workers? As I said in the beginning, the workers' interests are safe and secure in the hands of our beloved Prime Minister, Shri Rajiv Gandhi, than in the hands of the Opposition leaders today. It will be no exaggeration to say that all the benefits of the labour laws, labour

welfare laws, have accrued only to the workers in the organised sector. But I am sorry to state that in the organised sector today in India, the labourers are the worst sufferers and the beneficiaries are the trade union

leaders. These trade union leaders, because of men- personal interests, are leading these conditions, they want-eu and they want that this country should not progress. According to the 1981 census, madam, Deputy Chair-mani, the strength of the rural unorganised labour in the country is of the order of 22.08 million. Can the Opposition leaders deny the fact that they are the backbone of the Indian economy, particularly those people who are in the agricultural sector, the agricultural labourers, the small, medium and the marginal farmers and the other workers? The Government has been endeavouring to advance the interests of these workers and improve the socio-economic conditions of the unorganised rural workers in the country today through a number of measures which have been taken specifically to increase the income and the working and the living conditions of the rural workers in the country today. It is evident that the 20-Point Economic Programme, the IRDP, the NREP and the RLEGP have improved their lot and, according to the available information today, between 1980 and 1984, the percentage of the people who were below the poverty line has been reduced. The percentage of the people who were below the poverty line was 52 per cent in 1981 and during the period 1980-84, it has been reduced much and, at the end of 1984, it has been reduced to the maximum extent, that is, today 37 per cent. Madam Vice-Chairman, I would like to ask the friends in the Opposition: Is not this development? Is not this progress? Is it not the achievement of the Congress (I) Party? Is it not the achievement of the Congress (I) Party under the leadership of Shrimati Indira Gandhi earlier and subsequently, under the leadership of beloved Shri Rajiv Gandhi? It is an admitted fact that this Government is taking care of the workers and the weaker sections and the poorer sections of the society and you cannot challenge

these facts. You do not want this country's progress and that is why you are instigating the workers. It is

also for the betterment of the worker, it is not for the interests of the workers, but it is only for your own interests and your own political ends, that you are indulging in this kind of acts. The workers in the organised sector will be well advised to learn the work those from their brethren in the unorganised sector today. The nation is beholden to the workers in the rural areas for having achieved self-sufficiency in foodgrains. For instance, the farmers in the country, who are in a majority, are also weaker sections. The farming community in India today is not so rich, is not so better off. But that community forms the backbone of the economy today. They are the food-giving people to the whole nation, to the whole humanity, today. But this section is not at all cared for and they think that the Opposition leaders are not at all raising their voice for them and that they are not for them. The foodgrains production is high in the country today and, today, we have achieved the best production in the world. For instance, in the FCI where foodgrains have - to be started after the hard labour of the small, medium and marginal farmers of this country, if they want to go on strike, what will happen? You must think in terms of those things. That is why the Essential Services Act is essential. And it requires not only five more years; it requires 50 years and even more, because if this is not done so in this country today, "every disorder is the order of the day" and our Opposition friends are bent upon creating chaos so that they can fish out something through this condition. But the mass of the country, the Indian people are behind the Congress party, because Congress party is the only party which enables them to be in the society as free living people. That is why our friends in the Opposition never wanted this party or our progressive policies to come in their way.

Madam, I want to quote one instance. Many of our friends would have visited Japan, which was destroyed during the Second World

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War. It is well known all over the world. Now, in that country there are also workers. They are striving hard for the betterment of the society and they just never bother to strike. But their rights are never ignored. If they want any more benefits, they do get the benefits by negotiations. After the working hours they put black flags or black slips on their shirts, and after the working hours they go out of the factory and sit there to demand their legitimate claims. But in India, when Mr. Salve was speaking, the Communist friends said, the Socialist countries have a different culture from the other societies. We also visited those countries. We have seen, and we have discussed with them. And their culture is different from your culture. And I accuse you friends but I tell openly—that your culture is on destructive basis, their culture is on constructive basis. It will never attract the masses of this country. That is why you are now making all the hullagullah.

(*Interruption*) Our culture is accepted by the people of India. That is why we are here. It is due to the Prime Minister and his image that we are here, and in the ruling party you are there in opposition. You will not be able to come to this side as long as our Prime Minister is there and the Congress Party in this country is there.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): You have already taken 15 minutes.

SHRI THANGA.BAALU: They are interrupting. I have to answer them. You tell that side.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Please do not interrupt him. Let him finish.

SHRI THANGABAALU: I do not wish to take more time. But because of their interruption it is my right to assert my party's views.

Now, Madam, our hon. Home Minister has categorically and amply said that this legislation requires the full support of the House to meet the emergencies. In fact, it is in the interests of the workers, in the interest of the people at large, in the interest of the common masses of this country and in the interest of the weaker sections of the society. Therefore, Madam, we want to take the cooperation of all the Members, not only from this side but that side also, although they are not willing to support. But it is the botinden duty of the Indian parliamentarians and the citizens of this country to support this Bill. Our Prime Minister has given a call to the people and the poor masses of this country that the Congress stands for poor and work for it. The hope of the Nation, Shri Rajiv Gandhi, has to take these kinds of steps to check the people who do not want this country to move forward. That is why, we welcome this Essential Services Maintenance (Amendment) Bill, 1985, and also the proposed Resolution. I welcome once again. Thank you, madam.

**श्री चतुरानन मिश्र :** महोदया, यह बिल इतना लज्जजनक है कि इसका समर्थन करना बहुत ही असंभव सी बात है। मैं ऐसा क्यों कहता हूँ? हममें से जो पूर्व वक्ता अभी बोले हैं, उन्होंने कहा कि विरोध पक्ष के लोग भारत में अराजकता पैदा करना चाहते हैं। अगर विरोध पक्ष में अराजकता पैदा करने की ताकत होती तो आप बहुत ही गंभीरता से हमारी बातों को सुनते? पंजाब में कुछ लोगों ने अराजकता पैदा की, जिसने हमारे प्रधान मंत्री की हत्या की थी उनको सरोपा पहनाया, तो आपने उनसे जा करके बातें की। लेकिन हम गरीब मजदूर हैं, कमजोर हैं, इसलिए हम से बात नहीं की और यह कानून ले आये। आपने आसाम में उन लोगों से बात की जिन्होंने कि अराजकता पैदा की। मैं आपसे सहमत हूँ कि बात आपसे करनी चाहिए थी और आपने अच्छा किया। लेकिन भारत के श्रमिक नेताओं के साथ और दल के साथ भी बैठ करके बात करते नई श्रम नीति के

बारे में। लेकिन आपने ऐसा नहीं किया, क्योंकि हम में वह क्षमता नहीं है। अगर वह क्षमता रहे तो कल आप झुक कर बात करेंगे। मैं जानता हूँ इस बात को। इसलिए आप यहां चाजे नहीं लगाएँ। आपने यह साबित कर दिया है कि आप अराजकता पैदा करने वाले से ज्यादा बात करते हैं। इसका परिणाम यह हुआ। अब क्यों हम इसको लज्जाजनक कहते हैं? आप दुनिया के सभी देशों की बात करते हैं। मैं कहूँ कि किसी भी सभी देश जिसको आप कहते हों, छोड़िए कम्युनिस्ट देशों को, वे आपको नापसंद हों... (व्यवधान)

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Please address the Chair and not the other side.

SHRI CHATURANAN MISHRA: I am addressing the Chair.

मैं आपसे कहना चाहूँगा महोदया, कि श्रम संबंध पर विचार श्रम मंत्रालय को करना चाहिए। इस देश में क्या एमर्जेंसी है कि गृह मंत्री जी यह बिल ले करके आये हैं? श्रम मंत्री जी लायें और गृह मंत्रालय का रिकार्ड इतना खराब है कि हमारे प्रधान मंत्री जी मारे गए हैं, आपके दल के एमपी० मारे गए हैं, अभी संत लोंगोवाल को मारा गया है, अगर इन सब कामों को देखने की आपमें फुर्त नहीं थी तो मजदूरों को ही जेल में भोजन का कानून क्या बनाना चाहिए? यह अत्यन्त ही दुखद बात है, अगर हमारा गृह मंत्रालय ऐसा सार्चता है? अब इस बिल में क्या है, सुनिए :

Section 10 of the Act says that "notwithstanding anything contained in the Code of Criminal Procedure, 1973. any police officer may arrest without warrant any person who is reasonably suspected of having committed any offence under the Act." According to Section 11, "all offences under this Act shall be tried in a summary way".

अच्छा हम चोरी, डकैती और रेप करने वालों से भी बुरे हैं? उनके लिए कोर्ट से सम्मन होगा और हमको समरी ट्रायल

कर दीजिए, क्या यही आपके लिए उचित है? आपके दल में भी तो मजदूर आन्दोलन करने वाले लोग हैं। क्या यह उचित है कि इन कैमरा समरी ट्रायल करवा दीजिए, बिना वारंट हमको यह कर दीजिए और फिर कहते हैं कि प्रजातंत्र का हम दम भरते हैं। यही प्रजातंत्र की बात है क्या? इस एक्ट के तहत भी दिया गया है, आपने सी०आर०पी०सी० को खत्म कर दिया है। सी०आर०पी०सी० नहीं रहेगा। आपके सामने एक कानून था इण्डस्ट्रियल डिस्प्यूट का, उसमें भी हड़ताल पर बंदिष है, असेम्बली सर्विसेज को जारी रखने का उसमें प्रावधान है, उस एक्ट को भी आपने खत्म एकर दिया। इस कानून के जरिए आपने कहा है :—

"Provisions of this Act or of any order issued thereunder shall have effect notwithstanding anything inconsistent with anything contained in the Industrial Disputes Act, 1947 or any other law for the time being in force."

अपने ही बानए कानूनों पर आपको भरोसा नहीं है क्या? तो फिर ऐसा कानून आप बनाते ही क्यों? तमाम कानूनों को रद्द कर दिया। फिर आप क्या कहते हैं कि यह जो ओवर-टाइम है, इसके लिए भी अगर वह कहेंगे कि हम ओवर-टाइम नहीं कर सकेंगे, तो यह हड़ताल होगी, पुलिस पकड़ ले जाएगी, ऐसा होना चाहिए था? एक तरफ आप यहां पांच दिन हफ्ते में काम करा रहे हैं और दूसरी तरफ ओवर-टाइम के लिए मना करने पर ऐसा आप नहीं करने दे रहे हैं। इसके अलावा इसमें है :

"Any conduct which is likely to result in the cessation of work."

सारा भारत आज ठप्प हो रहा है, सारा पंजाब ठप्प हो रहा है, सारा असम ठप्प हो रहा है, सारा गुजरात ठप्प हो रहा है, उसके लिए कोई कानून नहीं बना, उनके लिए आपको सख्ती नहीं मिली और गरीबों को सताने के लिए आप यह कानून ले आए। इसलिए मैं कहना चाहता हूँ कि यह कानून अत्यन्त ही लज्जाजनक

[ श्री चतुरानन मिश्र ]

है। दुनिया के किसी भी सभ्य देश में इस एटीट्यूड का कानून नहीं है। इसको आपको समाप्त कर देना चाहिए था और मजदूर प्रतिनिधियों से बात करके एक नई अग-नोति बनानी चाहिए थी, जो लागू हो सके, जिसको लागू किया जाना चाहिए था।

मैं दूसरी बात आपसे कहना चाहूंगा, वह यह है कि इस कानून के मातहत प्रावधान ही नहीं है, जैसी कुछ शासक दल के लोगों ने चर्चा की है कि हम मालिक पक्ष के लिए कड़ाई करते हैं। लेकिन इसमें क्लोजर के कानून का कोई प्रावधान आपने नहीं रखा है। इसलिए हम कहते हैं कि आप पूंजीपतियों के पक्षधर हैं, उनकी दलाली के लिए यह कानून लाया जा रहा है। आज भारत की 85000 इकाइयां क्लोजर में चली गई हैं। लेकिन उसके लिए कोई कानून नहीं लाया गया, एक भी कानून नहीं बना और अब हमको आप कहते हैं कि असेन्सियल सर्विसेज सप्लाय यह रोक देंगे और पूंजीपतियों ने जब 85,000 इकाइयां बंद कर दी हैं, उनके लिए एक कानून नहीं। मजदूर रोजी-रोटी का सवाल उठा रहे हैं, तो उनके लिए कानून है, बिना वारण्ट पकड़ लेंगे, समरी-ट्रायल कर देंगे, जेल में बंद कर देंगे। अब वस्तु-स्थिति क्या है? वस्तुस्थिति यह है कि चीजों की कीमतें बढ़ रही हैं और इसके लिए धारे देश में काले-धन का निर्माण बड़े पैमाने पर हुआ है। क्या इसका निर्माण हम लोगों ने किया है नहीं, इसका निर्माण आपके जो मित्र लोग हैं, उन्होंने किया है और उनके लिए कोई कानून नहीं है। हम गरीबों को सताने के लिए आपके पास कानून है। हम उनसे लड़कर, हड़ताल करके उनके काले धन से अपना जायज हिस्सा ले आते हैं, वाजिब तरीके से ले आते हैं, जो कि समाज के सामने रहता है, उसको रोकने के लिए कानून है और जो चुराकर ले जाते हैं, उनके लिए कोई कानून नहीं है।

महोदया, मैं कहूंगा कि यह कानून आपका चलने वाला नहीं है। आप बनाकर

देख लीजिए। आपने जितने कानून बनाए, वह चलते नहीं हैं, उसी तरह से यह भी चल नहीं पाएगा। अगर कानून बनाने की बात है, तो प्राइस-राइज रोकने के लिए बनाइए। देश में एक अच्छा वातावरण तैयार कीजिए, जिससे देश को प्रगति की ओर हम लोग ला सकें। शासक दल के लोगों ने कहा कि इस कानून के जरिए हम लोग चाहते हैं कि देश में शांति बनाए रखें। मजदूर भी यही चाहता है कि देश में शांति बनाए रखें। मालिक पक्ष चाहता है, वह सामने है, 85,000 यूनिट बंद करके रखीं और उनके धन में कोई कमी नहीं आती। इसलिए आपका यह कानून जो है, मालिकों के पक्ष के लिए है और इसलिए ही आप इसको ला रहे हैं।

महोदया, हमारे गृहमंत्री ने उचित ही कहा है, आंकड़ा नहीं दिया, लेकिन उचित ही कहा है कि अभी हड़ताल की स्थिति नहीं है, अभी क्लोजर की स्थिति है, अभी लाक-आउट की स्थिति है। लेकिन आप कानून बना रहे हैं, हड़ताल को रोकने के लिए। अभी जो स्थिति है, उसके लिए पहले आप कानून बनाइए आपने स्वीकार किया है कि अनुकूल स्थिति पैदा हुई है, तो क्यों देश को बर्बाद करना चाहते हैं। आप कहते हैं कि इसका कोई इस्तेमाल नहीं किया। अगर आपकी गर्दन पर नंगी तलवार लटका कर रखी जाए तो क्या आप सही ढंग से बात कर सकेंगे? फिर आप यह नंगी तलवार बनाकर क्यों हमारी गर्दन पर रख रहे हैं? अगर आप इस्तेमाल नहीं कर सकें हैं, तो अच्छी बात है। आप अनुकूल वातावरण पैदा कीजिए, मजदूर आपके साथ सहयोग करने को तैयार हैं।

चूंकि आंकड़े बहुत से आए हैं, इस लिए मैं उसकी ओर नहीं जाना चाहूंगा अभी तालाबन्दी की बात उठी। मैं कहूँ,

अभी भी फरीदाबाद में एक मल्टीनेशनल कम्पनी है, बाटा कम्पनी है, जहाँ पर आज महीनों से तालाबन्दी है। सरकार के पास यह कानून है। क्या वहाँ लागू नहीं होता। मैं अनेक उदाहरण दे सकता हूँ। अभी आपने यूरिनियम के लिए नोटी

4.00 p.m.



फिकेशन किया है। बिहार के छोटा नागपुर में यूरेनियम माइन्स हैं। करौली के पास यूरेनियम पकड़ा गया है। वह नेपाल जा रहा था। उसको रोकने के लिए आपका कानून नहीं है, लेकिन यह नोटिफिकेशन ले आया गया है। आप स्मगलिंग को पकड़िए जिससे देश बर्बाद हो रहा है। यह आज मुख्य बात है। मजदूर से झगड़ा करना मुख्य बात नहीं है। आई-सोलेटेड गलती तो मजदूर नेता भी कर सकते हैं, हम भी कर सकते हैं, लेकिन वह बगावत नहीं होती, वह हत्या या मर्डर नहीं होता। वह तो अपनी रोटी रोटी के लिए लड़ता है, उसकी मदद के लिए आपको कानून बनाना चाहिए। आप इंडस्ट्रीज को बढ़ाने के लिए मार्केट फोर्स पर छोड़ देंगे, बाजार भाव पर उनको छोड़ देंगे तो हम पर आप क्यों बंदिश लगाते हैं? हम इंडस्ट्री से मुकाबला करके अपने उचित अधिकार उन से छीन लेंगे। आप हमारी मदद मत कीजिए, लेकिन उनकी यह लज्जाजनक मदद भी मत कीजिए। यही मैं आपसे अपील करूंगा। यह कानून बना कर आप उनकी लज्जाजनक ढंग से मदद कर रहे हैं और मैं यह कहूंगा कि आज देश में जो परिस्थिति पैदा हो रही है उस में हम लोगों की ही नहीं, आई०एन०टी०यू०सी० के लोगों को भी हड़ताल पर जाना पड़ सकता है। वह भी आपके इस कदम के पक्ष में नहीं है। उन लोगों ने तो आज मौन व्रत लिया है कि आज हम नहीं बोलेंगे, लेकिन वे भी इसके पक्ष में नहीं हैं। अभी पूरे बंगाल के लोग हड़ताल करने जा रहे हैं 12 सितम्बर को। आई०एन०टी०यू०सी० के लोग भी हड़ताल करने जा रहे हैं और जूट मिल्स की स्ट्राइक में उन्होंने भी हिस्सा लिया था। दूसरे लोग भी हिस्सा लेंगे। यह अनिवार्य हो गया है और इसी लिये दुबारा फिर मैं गृह मंत्री जी से अनुरोध करूंगा कि आज एक अच्छा वातावरण बना है देश में, इसको बर्बाद मत कीजिए। यह कठिनाई से बना है। पहले बूढ़े यूनियनों के नेताओं से और दूसरे लोगों से बात कर लीजिए और अगर बिना इसके काम चल सके तो वह कीजिए। जब नए प्रधान मंत्री आए थे तो उन्होंने कहा था कि वे नए ढंग से देश को चलाएंगे

उन्होंने कुछ नए काम किए पंजाब और आसाम के मसलों को हल करने के लिए। उन्होंने एक नई शिक्षा नीति चलाने की घोषणा भी की। तो श्रम के मामलों में नई शिक्षा नीति क्यों नहीं बनाई जाती? एकाधिकार को समाप्त करने के लिए आप कोई नई नीति क्यों नहीं लाते? इसलिए मैं फिर अपील करूंगा। मैं जानता हूँ कि आप मानेंगे नहीं, लेकिन कहना चाहता हूँ कि अगर आप यह कानून बनाएंगे तो इस देश में 80 लाख लोगों ने हड़ताल की थी अंग्रेजों के वक्त में, दुनिया में इतनी बड़ी हड़ताल कभी नहीं हुई थी। आपके पास मैजोरिटी है, आप इसको पास कर सकते हैं, लेकिन हमारी बातों की अनसुनी आप मत कीजिए और इस बिल को स्थगित कीजिए। ऐसा कोई बवंडर नहीं होने वाला। बातचीत करके समस्या को सुलझाने की कोशिश कीजिए। कई समस्याओं को आपने सुलझाया है। अभी भी आप सुलझा रहे हैं। इसलिए इसको स्थगित करके, बातचीत करके इस समस्या को सुलझा लीजिए। किसी भी हालत में गृह मंत्रालय को इसमें दखल-अन्दाजी नहीं करनी चाहिए। यह श्रमिकों का मामला है। श्रम मंत्रालय इसमें काम करे। अभी इमरजेंसी डिक्लेयर नहीं हुई है, इसलिए मैं अनुरोध करूंगा कि आप इसको प्रेस मत कीजिए। इन शब्दों के साथ मैं इस बिल का पूर्ण विरोध करता हूँ और कहता हूँ कि इससे देश का कोई भला नहीं होगा। और इसलिए मैं सरकार से अनुरोध करता हूँ कि इसको प्रेस न करे।

**श्री लक्ष्मी नारायण (दिल्ली) :** उप-सभाध्यक्ष महोदय, मैंने अपने मित्र मिश्र जी के बिचारों को सुना। मुझे उनके साथ उनके देश में तीन-चार दिन रहने का मौका मिला है।

**श्री चतुरानन मिश्र :** पोइन्ट आफ आर्डर। मेरा देश कौन सा है? या तो वे इसको वापस लें या स्पष्ट करें।

**श्री लक्ष्मी नारायण :** मैं और मिश्र जी जी०डी०आर० में साथ-साथ रहे थे। वह एक कम्युनिस्ट देश है, इसलिए मैंने ऐसा कह दिया।



[ श्री लक्ष्मी नारायण ]

मैं यह निवेदन करना चाहता हूँ कि यह कोई नया विल नहीं है। हमको थोड़ा सा इतिहास को देखना चाहिए। 1977 में हम इलेक्शन हारे थे। 1978 में श्री ए०पी० शर्मा जो रेलवे के बड़े भारी नेता थे उन्होंने बोनस के मामले पर एक हड़ताल का नोटिस दिया। आल इंडिया कांग्रेस पार्टी के लेबर सेल की एक मीटिंग 24 अक्टूबर रोज़ पर हुई थी जिसकी अध्यक्षता श्रीमती इंदिरा जी ने की थी और मैं अपने विपक्ष के नेताओं से कहना चाहता हूँ कि उसकी याद करें उनके शब्दों को, ए०पी० शर्मा जी से उन्होंने कहा था कि शर्मा जी आप हड़ताल का प्रस्ताव वापस ले लीजिए। इससे देश की प्रगति रुक जायगी। वह उस समय प्राइम मिनिस्टर नहीं थी। उस वक्त उन्होंने ये शब्द बोले। तीन जनवरी, 80 को हिन्दुस्तान में दुबारा चुनाव हुआ और हमारे मित्रों के काले कारनामों की वजह से उन चुनावों में कांग्रेस पार्टी विजयी रही। इन्दिरा जी दुबारा प्राइम मिनिस्टर बन गईं। तब से लेकर 80 तक—लेबर मिनिस्टर यहां मौजूद नहीं हैं, आप श्रम मंत्रालय से आंकड़े मंगवाएँ कि 80 में कितनी हड़तालें हुईं और 77, 78, 79 में कितनी हड़तालें हुईं। 80 में हड़तालों का रिकार्ड भंग हुआ और फरवरी, 81 में भारतवर्ष को बंद करने का आह्वान दिया गया। हमने दिल्ली में तय किया कि दिल्ली बंद नहीं होगी, चाहे सारा हिन्दुस्तान बंद हो जाय और हमने उनसे कहा कि आइए हड़ताल पर आकर देखिए, लेकिन कोई हड़ताल नहीं हुई। एक नेता जो 77 में भारत सरकार के मंत्री थे उन्होंने बम्बई में भाषण दिया। उस समय हिन्दुस्तान में गल्ले की दिक्कत थी और गल्ला बाहर से मंगाने की बात थी। उन्होंने अपने भाषण में कहा कि हिन्दुस्तान में अगर बाहर से गल्ला आएगा तो किसी बंदरगाह पर उतरने नहीं दिया जायगा। हम बंदरगाहों के नेता हैं और अगर पुलिस ने जबरदस्ती उतार दिया तो हिन्दुस्तान की रेलें उसको बम्बई से दूसरी जगहों में नहीं ले जाएंगी। क्या तो कोई सरकार जो सरकार कहलाने का दावा रखती

हो इन भूमकियों में आ सकती है? अनाज बाहर से आया। देश के कोने-कोने में लोग अनाज के लिए तरस रहे थे, भूखे थे और उस समय उन नेता साहब का यह दावा था कि रेल नहीं चलने देंगे, अनाज देश के दूसरे कोनों में नहीं जाएगा। इस बात पर सरकार कैसे चुप करके बैठी रहेगी। इन्हीं कारण से जुलाई 81 में मेरे दोस्त को याद नहीं है शायद, यह आर्डिनंस आया था और हिन्दुस्तान का शायद सबसे पहला व्यक्ति मैं था जिसने इस आर्डिनंस का समर्थन किया था, अखबार वाले भी मेरे पास आए थे और उसी दिन मैंने इन्दिरा जी की फोटी पर 15-16 हजार लोगों की एक मजदूर रेली की जिसमें अस्मा आर्डिनंस का समर्थन किया गया था। मैंने आपसे ज्यादा हड़तालों की होंगी, लेकिन हड़ताल का मकसद यह नहीं होता। आपने यह कहा कि हिन्दुस्तान की और दूसरे देशों की परिस्थितियाँ अलग-अलग हैं। मैं कहना चाहता हूँ कि हिन्दुस्तान की परिस्थिति और है और दूसरे देशों की परिस्थिति कुछ और है, यह बात ठीक है। और मैं उनसे इसलिए सहमत हूँ कि दूसरे देशों के मजदूर अपने कारखानों में आग नहीं लगाते, दूसरे देशों के मजदूर बिना बात के हड़ताल का नारा नहीं देते। यह अपने ही देश में होता है। बार-बार दूसरे देशों की बात की जाती है, लेकिन हमको ताज्जुब होता है कि खुद मजदूरों का गला काटने वाले लोग इस तरह का दावा करते हैं और मजदूरों की हिमायत की बात करते हैं। इस पर मुझे ताज्जुब होता है। बदरपुर यहां से दस-बारह किलोमीटर दूर होगा। वहां आसमा तोड़ा गया। सी टी यू के लोगों ने यह काम किया और यहां के लोग ही मजदूरों की हमदर्दी का दावा करते हैं। वहां कौन लोग मजदूरों की मदद करने वाले थे जो मजदूरों की हमदर्दी का नारा दे रहे हैं। मैं जानता हूँ कि वह अन्दर से कितने खोखले हो चुके हैं। मैं गृह मंत्री जी से प्रार्थना करूंगा कि किसी जगह अगर कोई वर्कर कम काम करता है तो उसको चार्जशीट मिल जाती है, लेकिन अगर कोई कारखाना बंद हो जाय या कोई पब्लिक अंडरटैकिंग बंद हो जाय जैसे कि बंगाल केमिकल बंद होने जा रहा है तो मैं

चाहता हूँ कि वहाँ के जो मैनेजिंग डायरेक्टर हैं, जो चेंबरमैन हैं उसको जेल में डालना चाहिए क्योंकि यह उसकी वजह से हो रहा है। अगर वर्कर की इन-एफीशिएंसी से बंद हो या काम न करने की वजह से बंद हो तो वर्कर को चार्ज-शीट मिल जाता है कि तुमने काम क्यों नहीं किया, तुम्हारे खिलाफ कार्यवाही क्यों न की जाय। लेकिन सी०एम०डी० को डिसमिस करने वाला, उसको चार्ज-शीट देने वाला कोई नहीं है। वर्कर को पांच साल में एक बार भी चार्जशीट नहीं मिली। उसने काम कम नहीं किया तो साफ है कि मैनेजमेंट की गलती से उत्पादन घटा। गृह मंत्री जी से मेरी प्रार्थना है कि वह ऐसा बिल लाने की कोशिश करें कि कोई भी पब्लिक अंडर-टेकिंग अगर बंद होती है तो उससे पहले उसके सी०एम०डी० को जेल में डालना चाहिए। हर समय मजदूरों को बदनाम न किया जाए। यह साबित हो चुका है।

श्रीमन्, मैं निवेदन कर रहा था कि 1981 में इस आर्डिनैंस के आने पर हमने इसका समर्थन किया। कई लोगों ने इसकी मुखालफत की। उसके बाद यह कानून बना कानून तो यह है, अब तो केवल इतनी बात आई है कि इस कानून को और बढ़ा दिया जाए चार साल के लिए।

श्री चतुरानन मिश्र : 5 साल के लिए।

श्री लक्ष्मी नारायण : 5 साल के लिए सही। आप चार साल की बात मान लो तो हम गृह मंत्री जी से निवेदन करेंगे कि इसको 4 साल कर दिया जाए। कहीं तो आप मानो। मुश्किल यह है कि आपको यह भी मंजूर नहीं है। आपकी तोड़-फोड़ की नीति गलत है। अभी हमारे एक नेता भाषण दे रहे थे कि मुम्बई में तन बेचकर महिलाओं ने अपना गुजारा किया। तो जय बोली दत्ता सामंत की, सरकार को क्यों कोसते हो? उनके लिए कोई कुछ नहीं कहता जिनकी गलत नीतियों की वजह से हिन्दुस्तान का मजदूर खाली बैठता है। वह इसलिए बेकार है कि आप मजदूरों के हितों के विरुद्ध अनीति अपनाते हैं। उन्होंने न केवल मुल्क के

सामने बल्कि विदेशों के सामने भी मजदूर को बेचा। आज देश के अन्दर मजदूर नीति नहीं चलती है। देश के अन्दर वह नीति चलती है या चलाने की कोशिश की जाती है कि हमारे आका क्या चाहते हैं? उसके हिसाब से लोगों को कहा जाता है कि चन्दा इकट्ठा करो। हड़ताल होती है दिल्ली में और चन्दा जमा होता है कलकत्ता में। हड़ताल होगी बिहार में, चन्दा जमा हो रहा है कन्याकुमारी में कि दीजिए चन्दा बिहार में हड़ताल के समर्थन के लिए। यह कौन सी मजदूर नीति है?

महोदया, मुझसे ज्यादा दुख हड़ताल से किसी को नहीं होता क्योंकि मैं भी एक किसी समय कर्मचारी था। मुझे विक्टिमाइज़ किया गया, जेल में डाला गया। सब कुछ मेरे साथ हुआ। यह तमाम चीजें जो मेरे भाई कहते हैं, यह मैंने खुद देखा है, मेरा पर्सनल ऐक्सपीरियंस है। इसलिए मैं कहता हूँ कि हमारे मजदूरों की जो नेतागिरी करने की बात करते हैं वह उनको सही दिशा नहीं देते हैं। आई०एन०टी०यू०सी० ने उनको सही दिशा दी। लाक आउट का प्रावधान भी पहले इस बिल में नहीं था। वह उस समय आया जब हमने इंदिरा गांधी को बताया कि इसमें लाक आउट की चर्चा नहीं है। उन्होंने उसी समय लेबर मिनिस्टर और होम मिनिस्ट्री को डाइरेक्शन दी कि लाक आउट का भी इसमें होना चाहिए। नहीं तो पहले बिल में यह नहीं था। क्या हालत उस वक्त थी। ये कहते थे कि इंदिरा गांधी की हुकूमत को चलने नहीं देंगे। ये तो कभी किसी प्रान्त में बंद कर, कभी किसी इंडस्ट्री में बंद करवाकर सारे हिन्दुस्तान में बन्द करवाते थे। बंगलोर में चार महीने से ज्यादा एक पब्लिक सेक्टर में हड़ताल रही, वह बन्द रही। बार बार उनको बुलाया गया और कहा गया कि आइए बात कर लीजिए, लेकिन वह बात करने के लिए तैयार नहीं होते थे। यह सब कुछ कौन करता था? अगर बातचीत से फैसला हो जाए तो लीडरी खत्म हो जाती है। इसलिए हम बार-बार जोर देते हैं तो नेता कहते ऐसा मत कीजिए। हम सरकार को शुका

## [ श्री लक्ष्मी नारायण ]

देंगे। जब तक उनके घर के बर्तन न बिक जाएं जब तक उनका अनाज न बिक जाए, तब तक हड़ताल चालू रखिए। इससे मजदूरों की दशा सुधरती नहीं है। जब तक आप इस लाइन पर नहीं जाएंगे कि यह देश हमारा है इस देश को बनाना है, इस देश के मजदूर भी उसी प्रकार से नागरिक हैं जिस प्रकार से कि भारत का प्रधानमंत्री नागरिक है, तब तक यह देश ठीक से चलने वाला नहीं है। इसकी पैदावार बढ़ने वाली नहीं है। हम तो यह मानकर चलते हैं कि सरकार ने कुछ किया है और ठीक किया है। ये मोर्चा बनाने की बात है। मोर्चा बनाने से देश नहीं चलेगा। हमको मानकर चलना पड़ेगा कि हम भी इस देश के नागरिक हैं। मजदूर और कार्यकर्ता या लैबर-लीडर को भी देश को बढ़ाने के लिए ही उतना ही उत्तरदायित्व है जितना की प्रधानमंत्री का है।

उतना ही उत्तरदायित्व गृह मंत्री जी का है। हम क्यों नहीं सोचते इस बारे में? हम इसलिये नहीं सोचते कि जब हिन्दुस्तान आजाद हुआ था तब गलत परम्पराएं डाली गई थी। सन 1947 में पंडित जलाहर लाल नेहरू जब प्राइम मिनिस्टर बने थे। उसके बाद 1948 में सबसे पहले हिन्दुस्तान के अंदर हड़ताल हुई थी। विरोधियों ने मिल कर 1948 में यह हड़ताल कराई थी। इतिहास इस बात का साक्षी है। देख लीजिए इतिहास के पन्ने उठा कर कि किसी भी स्टेज पर यह नहीं कहा कि हम इसको बर्दाश्त नहीं करेंगे। इन्होंने इस बात को बर्दाश्त करने की कोशिश नहीं कि कांग्रेस की सरकार आ गई। कांग्रेस की सरकार का आना इनको हजम नहीं हुआ 1948 के बाद लगातार आप इतिहास के पन्ने उठा कर देख लीजिए जब-जब भी चुनाव हुए और उसके बाद कांग्रेस की सरकार ने हल्फनामा लिया उसके ही 6-6 महीने बाद किसी न किसी बात पर हड़ताल का आयोजन किया गया। यह हिन्दुस्तान का इतिहास बताता है ट्रेड यूनियनिस्ट यह नहीं करते कि छ: महीने बाद हड़ताल का नोटिस दे दो। मैं आप से ज्यादा ट्रेड यूनियनिस्ट हो सकता हूं। हमने कभी यह नहीं कहा

कि बिना बात के स्ट्राइक कर दो, गो-स्लो कर दो। आपका यह काम है कि अगर हड़ताल नहीं हो रही है तो आप चुपके से एक आदमी के कान में फूंक दोगे कि काम जरा धीरे होना चाहिये। अगर पहले दिन फैक्टरी में 100 रुपये का माल बना था और जब यह कान में फूंक दिया गया तो अगले दिन शाम तक पता चला जायेगा कि आज केवल 20 रुपये का काम तैयार हुआ है। एक तरफ तो आप यह बात करें तो दूसरी तरफ यह कि हमारी तनख्वाह बढ़ाओ दोनों बातें कैसे चल सकती हैं। एक तरफ हड़ताल करायें और दूसरी तरफ वेजेज बढ़ाने की बात करें तो ये दोनों बात कैसे साथ-साथ चल सकती हैं। पैदावार बढ़ाइये फिर कहिये बढ़ाने के लिये देखिये आप की तनख्वाह बढ़ती है या नहीं। हमने पैदावार बढ़वाई और तनख्वाह भी बढ़वाई। आज मैं दावे के साथ कह सकता हूं कि डेसू के कर्मचारियों का पे-स्केल आज हिन्दुस्तान के दूसरे कर्मचारी से अधिक है। उन्होंने काम किया है, मेहनत की है, काम करके दिखाया है जब जाकर मालिक पास एम्पलायजे के कहा कि अपनी जेब से पैसा निकालो। हमने उनकी जेब से पैसा निकलवाया। यह हमारा अधिकार बनता है कि काम करके दिखाओ और पैसा बढ़वाओ। लेकिन आज हालत क्या है कि काम की बात मत करो। काम करना तो आवर टाइम दीजिए। दिन में तनख्वाह दीजिए वह केवल गाने की। यह सबक आप आज कल मजदूरों को सिखाते हैं। यह भूल जाते हैं कि यह देश हमारा है। मैंने शुरू में मजाक में दो शब्द कह दिये थे। मैं यह निवेदन करना चाहता हूं कि अपने ट्रेड यूनियन के लीडरों से कि हम पहले यह सोच लें कि यह हमारा देश है। यह सोचकर अगर हम ट्रेड यूनियन मूवमेंट चलायें तो इन बिलों की जरूरत नहीं पड़ेगी और न इंडस्ट्रियल डिस्प्यूट एक्ट की जरूरत पड़ेगी। हमें किसी भी प्रकार के बिल की जरूरत नहीं पड़ेगी। अगर हम एक मिनट सोच लें कि हम सब इसी देश के नागरिक हैं और इसी देश को हमको चलाना है तो हमें किसी भी चीज की जरूरत नहीं पड़ेगी। इन्हीं शब्दों के साथ मैं इस बात के बिल की हिमायत करता हूं।

SHRI SUSHIL CHAI MU MOHUNTA (Haryana): Madam, Vice-chairman, this draconian Bill has been brought forward with the sole objective of putting the worker under constant fear and threat, it is the basic right of every worker round the globe to agitate and protest for his rights. To take away the strong weapon of protest from the armoury of the workers, I would say, is the greatest blow that can be given to the workers. The workers normally do not want to go on strike. They are there to work so that production goes up. When the production goes up, the workers automatically benefit by it. And if they have to resort to strike there must be reasons, good reasons, for it, and that strike also does not come at the initial stage of dissatisfaction of the workers. That comes when repeated attempts, repeated discussions, talks, everything has failed and the management sits tight and refuses to even accede to the normal and just demands of the workers. At that stage the workers have no other avenue open to them except to go in for strike. If you take away this weapon of strike, it is patently clear that you are trying to help those handful of people who are responsible for the management of an industry, of a concern.

Times have changed. We have taken the course of democracy in this country. Democracy does not go by right. You can have a successful democracy only by consensus. And in consensus a dialogue has to be established between the contending parties and an amicable and just solution has to be found. If one party knows that come what may the worker has no chance of going in for a strike, it will never accede to the request of the workers. You have to leave the worker free, the management free to negotiate their demands so that a just solution can be found. Don't put the workers at a disadvantage when they go in for seeking their demands. What do the workers need? They do not want to become owners of the man-

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agement. They want participation in the management. And why do they need participation in the management? Because they want a decent living, they want a house to live in a decent place, they want to educate their children, they want medical facilities for their children, they need a little bit of saving to ward off cases when there is emergency. Some times a person may have to go to different places in connection with some close relation being ill or having died; there may be a marriage in the family; so many things can happen. For all that they need a little bit of saving. And bare necessities of life are to be supplied to them. Is this too much that anybody can hope for. In a welfare State, it is the duty of the Government to see that the workers are well to do, at least to the extent that they can meet their bare necessities of life. If they cannot do that, then they have a right to demand. And from whom are they demanding? They are demanding from a management which lives in five star hotels, a management in which black money abounds, a management which is affluent and flourishing. They have money to waste on their foreign trips, they have money to waste on luxuries. I can tell you that if the workers are given proper wages, proper facilities and proper amenities the management will also have to curtail its unnecessary spending. You can not after all say that we will deprive the workers of their bare necessities while the management rollicks and frolics and leaves the workers in a condition where they cannot even make both ends meet. A worker if he is properly and adequately paid, if he has got proper amenities, if he can look after his children properly, if his health care is taken care of, if he is able to have a certain savings to fall back upon in times of emergency and if he can have access to it, then why should he go on strike? I am posing this question. Have you come across a case when the workers have gone on strike when they are

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in affluent condition.' And who suffers alter the strike? It is not the management which suffers, JL is the worker who suffers, it is the nation which suffers. So why must you impress tins upon the management. JNoody listens to a person who does not raise his voice. You only look t-j him when something out of the ordinary happens. And when the workers go on strike, then everybody's attention is focused on them. It is only then that their demands come into limeugnt. if you don't want to give tnat weapon of strike to him, where will the worker go? The figures that have been quoted before you mane out a clear case that the management resorts to lock-outs, closures and in lock-outs and closures more mandays are lost than in strikes. Even then we find that lock-outs and closures have never been dealt with in a single instance since the passing of the original Act till today. Now that you are seeking its extension for another five years, I would like to know if any action was taken against the management for lock-outs or closures. What is the use of passing a law which will not be obeyed in its implementation but which will be fofollowed only in its breach? This law cannot prevent motivated people with strong intentions, who have been slighted, who have not been dealt with fairly to come and seek their rights, from going on strike. This Bill does not provide for that if a situation does arise whereby they go on strike. I can tell you, a strike won't be called off because of this Act or this Bill. A strike, if it is at all going to be called off, will be called off because of negotiations—there is no other method known. Specially in a *democracy like* ours, let us start with the idea of live and let *live*. Let us live together in harmony, not come into clash with each other. This Bill only talks of clash and it doesn't talk of harmony. Now, what is the use of such an Act? If you extend it for another five years, what difference is it going to make except that the workers will

nave to oe under consent lear and uireat." it may ensure against smau anu iittie inciaents or smau ana nine cases but when it becomes a general maaaly when the workers, in a general mariner, nave Deen denied meir ngnts, I can assure you, then a they all m a mass struggle, start agitating and go on strike, this law wont prevent it, this law cannot even be implemented, *so*, why oring a law wmc h has no meaning, which is irre-levent to the society and why blemisn our own country with a black spot— tnat to control production we have no other method because our people are indisciplined because we cannot look after and control them properly and so we have to have such measures? Why give this face to the world? We are a very disciplined people, mdians as a whole—I can tell you— are the most hard-working people in the world. They are gooo-intentioned, they do not want to cheat others they do not want to live off other people's earnings. But they certainly want their own earnings. For whatever work they put in whatever sweat they pour out, they are certainly entitled to be compensated. And we are not giving them even the bare minimum in this era. Otherwise, how is it possible that the management leaps happily from one industry to another, from the second to the third and so on? In certain cases we find that in a period of four or five years some 25 or 30 concerns are opened by one management alone by taking money from banks and other financial institutions and their profits and assets go on piling up; they/ become millionaires, multimillionaires and muWi-inultimilliona-res. But the condition of the workers goes down day by day and from bad to worse. We know that in such an era of galloping prices where the prices of the daily necessities of life-have escalated *so* high that one even can't think— inflation is the order of the day—we do not want to look towards the workers. How is it ever possible that we neglect the most important wing of our life and concentrate on the benefit of a handful of

persons? We have deliberately chosen the rule of the majority. ... (*Time-bell rings*). ... Rule of the majority means that whatever is good for the maximum number of people should be done and our policies should be directed towards that end; not for the benefit of a handful of people but for benefiting the largest number of people. I am sure, the Hon ble Minister will agree with me that if we neglect the workers, if we try to keep them under duress and if we adopt a threatening attitude towards the workers, it is very difficult for a proper climate and proper atmosphere to be generated in this country where we can have bountiful production. Production we can only have if we have a satisfied lot of workers who will work with their hearts and hands so that the country is enriched.

This Act is Draconian in nature to the extent that not only does it threaten the workers—it intimidates them—but it is also a black spot, for anybody who would see, it would find that in a country like ours, after 38 years of independence, we still have to take recourse to such measures to see that production goes up. It is not a very healthy sign. It is definitely a measure which will take us far backwards.

Thank you, Madam.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Mr. Chimanbhai Mehta.

SHRI AKSHAY PANDA (Orissa): Madam Vice-Chairman, I give my hearty thanks for giving me an opportunity to support this Bill, the Essential Services Maintenance (Amendment) Bill, 1985.

Madam, much has been spoken from both the sides on the point. I have something to say which is very clear and everybody of us knows.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Excuse me. Hon. Member, I called the name of

Shri Chimanbhai Mehta. He is present. He gives you permission to speak before him, with his permission, you can speak.

SHRI CHIMANBHAI MEHTA (Gujarat): I will speak afterwards. Does not matter.

THE VICE-CHAIRMAN (SHRIMATI KANAK MUKHERJEE): Please continue.

SHRI AKSHAY PANDA: I am sorry, Madam.

The main theme behind this Act is how to effect smooth running of the essential services in our country, by which at least the production will rise and workers will get their needful benefits and the so-called workers' leaders will be checked in the sense that in our country, especially in our State, I have seen—I am also connected with some workers' union and I believe that many problems can be solved across the table by discussion with the management or the Government Labour Department • then by strikes—strikes are generally called by the union leaders for their own benefit, and I know that on many occasions the leaders call for strike, take donations from the labourers and also at the same time they get good money from the management, and the strike is called off. The labourers stand where they stood before the strike, and labourers are checked out from their service. And they get such a type of experience that if once again the leaders, the so-called labour leaders, will go to them, they will not head them.

Madam, in this Bill nowhere has it been mentioned that the workers would be given their needful demands. Demands are always there. As my friend was telling, workers will do their work. The other day our Finance Minister was telling that the Government was taking necessary steps to see that workers would take part in management. Since 198\* when this

[Shri Akshay Panda]

Act was passed, we have seen how much unrest has been solved by this Government and how the industrial production has gone up. The services in the Electricity Department, the Railway Department, the Health Department are so essentially needed for public works that strike in these Departments means the country going back for years together. And whenever these strikes have taken place, we have seen what the situation was.

Our friends were speaking about the price rise. The price rise is there,, there is no doubt. But definitely the income of the people, the labourer, has also to be given due consideration, and that has been sorted out by the Government.

Madam, you can imagine that when these strikes used to take place in industries, they definitely ended in lock-outs. Sections 8 and 9 of this Act provides how the management will be dealt with and how lock-outs would be checked.

Madam, in our country we are so poor and bad in comparison to foreign countries that we just cannot compare with them in the matter of labour problems or other problems.

[The Vice-Chairman (Shri R. Ramakrishnan) in the Chair.]

Our problems are entirely different from those of other countries. Therefore, a consolidated effort by the Government as well as by the Opposition is needed for rebuilding this country. Whatever our country has achieved after independence that upto 1977 and after that the Janata Government had taken this country back to 20 years, during its rule from 1977 to 1980, after 1980 people realised, then again Madam Indira Gandhi was reelected as the Prime Minister and Congress party came to power and made concerted efforts to rebuild, this country. It is going ahead now under the dynamic

leadership of Shri Rajivji to a great height. The Opposition leaders who are speaking in this House are beginning to realise that they do not stand anywhere outside this House. The Congress Government is always safeguarding the interests of the labourers. This problem can never be solved by strikes or lock-outs. In this connection, I want to give an instance of the Paradip port in Orissa. This port would have been definitely developed to a great extent. But today it is not functioning properly owing to labour strikes. I have gone to the port once or twice to discuss the matters with the labourers. They told me that their grievances are not being attended properly by their leaders. Their leaders are moving in cars. They have got their own bungalows. These labour leaders are much afraid of the society of the labourers. Therefore, this Act is aimed at checking these labour leaders who are only making *hat a gulla* unnecessarily. We should educate the labourers who are suffering at the hands of the labour leaders. This Act is meant to check the activities of the labour leaders. Now the labourers will have their say definitely in the working of a factory. The Government as well as the management will definitely look into their demands.

With these few words I give my hearty thanks to the Chair. Thank you.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Prof. C. Laksh-manna.

PROF. C. LAKSHMANNA (Andhra Pradesh): Mr. Vice-Chairman, Sir, the Essential Services Maintenance (Amendment) Bill, 1985 which seeks to extend the period upto nine years is a blot on any civilised society.

It is a blot on civilised society, because it tends to take away the right of the worker to protest against the gross injustice that may be meted out to him. Sir, if this is continued, I am afraid, they will be demoralising all the labour force and the work force.

Instead of creating suitable conditions for the work force in order to become effective partners in the production process, the Government by this Act, is creating a sense of demoralisation and a sense of frustration. I, therefore, would like to request the Minister to kindly consider the consequences of such a draconian law which is sought to be introduced.

Sir, it is very difficult to decide as to what is essential and what is not essential; and the distinction that is being sought to be drawn, to my mind, is artificial because if you look at the development forces in its totality, in its entirety, almost every service is essential and unless all services are geared to the production forces, I do not see any reason how we will be able to achieve the various goals and objectives, which we have laid before ourselves and by resorting to Bills of this nature, we will only be making greater inroads into the willingness on the part of the working forces to be effective partners in the great pilgrimage of national development of the country.

Sir, the argument which is normally given is that there is a difference between the work force and those who lead the work force and that the Bills of this nature are meant only to curb the tendency on the part of those who lead the work force, sometimes, into wrong directions. This is the claim made by those who are in support of this Bill. I would like to say that the good of the country and good of the productivity of the country is not the sole privilege and prerogative of one group of people. It is not proper to assume that the leaders of work force are only interested in furthering their own interest and that they are not interested in the production as such. Therefore, this argument is untenable. Another thing is Sir, unless we are able to carry the entire work force with us, we will not be able to achieve the targets which we have laid before ourselves and which we have been revising from time to time for want

of fulfilling all those objectives and therefore, I would like to impress upon the Minister to kindly look at this Bill in that light and try to do something about it. Then, Sir, the workers have a right to fulfil their needs and even after 38 years of independence, in many aspects of the fulfilment of the needs of the work force, we have not made much headway. The inflation is spiralling up. The prices are going up. As a result, the life of the worker is becoming more and more difficult with the passage of time instead of easing and under these circumstances, when we are not able to meet the needs of the work force effectively, what right have we 'got to tell them that they should not resort to a process of protests, process of registering their unhappiness over the things that are happening in the industries or in the services in which they are placed. Therefore, even in order to know as to what is the real depth of progress that has been made in this country (*Time Bell rings*), it is necessary that we have a channel for assessment, and strike and registering the protest is one of those channels which is available to the working force. Therefore, in the name of the maintenance of essential services, if we have to take away this fundamental right from the work force, I do not think that will be a very tenable argument. Therefore, Sir, I would, once again, request the Minister to consider these aspects in this Bill and try to withdraw this Bill. Otherwise, as one who is interested in the well being of the work force, as one who is interested in the well being of the country as a whole and as one who is interested in the maintenance of fundamental rights of the citizens in whatever areas of activities they may be, I have no option but to oppose this draconian Bill and therefore, I oppose this and I once again request the Minister to kindly consider the possibility of withdrawing this Bill. Thank you.

SHRI CHIMANBHAI MTOTA: Mr. Vice Chairman, Sir, this Bill was introduced in the Lok Sabha on the 16th



August and those who opposed the Bill said that normalacy was returning now, the situation was improving and, therefore, such Bills were not required. But we got the tragic news on the 20th August, just four days later, that one of the finest sons of India, Sant Harchand Singh Longowal was killed by terrorists. This signifies that the situation in our country is not at all normal. Although the democratic forces are very strong and democratic traditions are well established, still there are certain forces working in a manner inimical to the interests of the country.

do occur and occur or a very long time and the workers are terrorised if they do not go on strike. If they try to resume work, they are even killed. Workers were killed for going to resume work in Bombay. That is also a fact. What is the answer to that? I would appeal to the trade union friends from the Opposition side: are we not going to consider this aspect? Mind you, this is a Bill which restricts their rights only in essential services, not in the entire industry. And mainly the essential services are in the public sector. Some of them raised this point. I understand that our bureaucracy is also not that patriotic. They do not consider the interests of the working class, a class that is toiling most in this country, a class that is honest. For them the bureaucracy does not show the concern they deserve. I would request the hon. Home Minister to consider another aspect also. If a strike takes place in a particular industry or in a particular factory then it should not be looked at only from the law and order point of view. The Government must go into every important strike to see whether the management was also responsible for provoking the strike, for the continuation of the strike because they have no business to behave as they are behaving today sometimes in the public sector.

But I have every right to demand, the attitude of the mangement which provokes strikes which does not care for the workers' interests, which keeps their demands pending for years, which dodges their claims, that such

issues also should be taken into consideration. Although workers' participation is enshrined in the Constitution as one of the guiding principles, it is not being implemented even in the public sector today, in so many industries in the public sector.

It should be implemented in the private sector also. There is some substance in the criticism that unless you have labour participation in the management and leave a free hand to the bureaucracy, strikes will continue to take place. Are we the only class that is the custodian of patriotism and nobody is supposed to bother about it? Those who fail in this, particularly the management, they should also suffer. With these words I support the Bill because I consider it my basic duty to stand by the interests of the nation and also the interests of the working class.

SHRI S. W. DHABE (Maharashtra): Mr. Vice-Chairman, I am very surprised to listen to the speeches of some of the leaders here. Some speakers went to the extent of saying that labour leaders are mere dealers and stooges of management. It is very unfortunate that when we are discussing such an important matter there should be a mud-slinging of this kind. The whole question is about the attitude of the Government towards labour movement. It is not for fun that workers go on a strike. They know well the result of going on a strike; they know they would have to go without wages for days together, they would have to starve, suffer suspension and dismissal. Yet they go on a strike. Why? This happens not only in India but in all democratic countries including UK which faced a big strike in coalmines. The working class today has become conscious of its rights. Therefore, to accuse labour leaders that they mislead the workers is unfair to them. We have faith in our country, we have faith in the efficacy of the collective bargaining system. And unless we have collective bargaining in our country, such aberrations

are bound to take place some time or other. Trade union movement, all of us admit, is not a nuisance in a society. Trade union movement is a force to reckon with and recognised in a democratic country; it has a role to play in production and progress and in improving the living standards of the working class. It is, therefore, our primary duty to support the toiling masses. Other things come afterwards. People are paid low wages. Fortynine per cent of the people are below the poverty line, Exploitation is very high.

There are no service conditions for workers in many industries. In Bombay city for years together, for ten years, fifteen years, there are workers on a temporary basis; they are not made permanent. The worker's service conditions are not streamlined everywhere. In many places there are no contracts even. Workers are appointed just orally, especially in the unorganised sector the workers have no security of job. We believe in Gandhian trade union movement. Gandhi said in 1917. "In our country we must evolve our own system by which we can solve the labour problem and at the same time do not affect the production." But, unfortunately the

Gandhian philosophy has been given the go-by. What was Gandhian philosophy? Gandhiji had said that strikes would not be useful for our country and our economy would not be able to bear this burden. Therefore, he said that strikes should be used only as a last resort. He also proposed a method of arbitration. Now, in a welfare State, everything is taken over by the Government. Right from electricity, coal etc. every thing comes under the Government's control and every thing under the sun comes under Government control and these essential services also come under the Government. So, this Essential Services Maintenance Act also may apply to those services. If the Government is the employer, our experience is that they are not prepared to accept arbitration. I asked the Finance Minister the other day a question. I asked him why the bank officers should go on strike and

[Shri S. W. Dhabe]

the whole country had to bear the burden. It was only a question of date. The question was whether it should be from 1983 or 1984. But, for this simple thing, they went on strike and the whole country had to bear the burden of the strike for a day. If we had accepted the Gandhian principle of arbitration or adjudication for solving such question, this matter could have been referred to a third person for adjudication or arbitration and the issue could have been settled amicably. Whenever such problems arise in essential services, the Government always treats these problems as law and order problems only and, therefore, there is confrontation between the workers and the management or the Government as the case may be. The working class is demanding for the last so many years that there should be a proper collective bargaining agency. Why should the Government fight shy of it? The Government believes in democracy and in an elected system. Every five years you are holding elections. But when the question of electing workers' representatives comes in the industry, they do not do that and they do not hold the elections at all. If they have got a majority, why should not the workers' representatives be elected? The Government has no answer to this question. The Government has not implemented the programme of workers' participation in management fully. The Government says that it has got the workers' welfare at its heart and says that the workers are appointed on the Board of Management. But they are not given any powers; they are not given any power to speak on financial matters and they are debarred from speaking on important matters. This is the sort of attitude which the Government is adopting towards the workers and that is the real reason why there is confrontation between the workers and the management or between the workers and the Government. In countries like Yugoslavia, Sir, the

workers have been given the full control over the management and ownership. Workers' representatives are elected and they have got full rights. Banks do not give them loans and no amount is given on revenue account as it is done here and as you give just as you have given to Coal India and others. It is because you have vested interests and they have no vested interests. It will be the responsibility of the workers who participate in the management to see that the undertaking is financially successful. But, in our country, we have no faith in our working class and we have no faith in ourselves and we have no faith in what we are doing. Therefore, my submission to the honourable Minister is that when he is dealing with this law, he should at least see that the rights which the workers have got are not diluted, are not prohibited, and that he should not treat their problem as a law and order problem. We had opposed this legislation at the time it was enacted and it has been stated now that, as compared to 1981, when this legislation was enacted, the position today is better. I would only like to tell the Minister that in 1981, the number of man-days lost was 36.58 million and, in 1984, it is 40.47 million. Has the number of man-days lost come down just by your prohibiting strikes? Here is a public sector undertaking, Sir, the Coal India Ltd, which entered into an agreement with the workers and signed an agreement with them. But that agreement was not implemented by Coal India and, therefore, there was a three-day strike by the working class and thereafter, Sir, Coal-India relented. If you do not implement your own agreement, what is the use? When you do not implement your own agreement, will you also say that such strikes would be banned under the Essential Services Maintenance Act? You don't pull up the management. Therefore, the question is not merely one of banning strikes. That is not going to solve the problem at all.

Now, Sir, the provisions in this Bill are draconian. It says that if a worker goes on strike, he will be punished for six months. If anybody instigates a strike, that is, any office-bearer of any union, he will be sentenced to one year's imprisonment and a fine of two thousand rupees will be imposed. If anybody pays any money to any trade union out of sympathy, that is also punishable. For instance, friends like Mr. Salve may like to help their

trade unions or such other 5.00 PM organisations. Even then he

is liable to punishment under section 7. There is nowhere such provision in the world making any financial aid to the struggling trade union, working class as an offence. He is punishable under the provisions of section 7.

Sir, today we have heard that a large number of closures are taking place. On our demand a debate took place. Closures are left out. A large number of industries are closing. Coming from Nagpur, I know that the stretch Fibres (India) Ltd., having a unit in Bombay has closed, and all the money from Nagpur is transferred there. More than Rs. 25 lakhs is in default in respect of wages and provident fund dues. Their industry in Bombay is running well. In Nagpur 400 workers are out of employment for the last three years. There they have closed the industry without giving any compensation to the workers, without paying their wages. What is the Government doing? I can understand if you are giving equal treatment to both the employers and employees. Then there was some meaning in saying that essential services must be maintained. But here when closures are there, not a single one is punished. Out of 450 detentions under the National Security Act, more than 75 per cent are trade union leaders who were arrested. All along we have been saying that the managements have misappropriated funds. There was a big scandal. We have

demand that they should be punished; But up till now not a single action has been taken against any management; to my knowledge. This unequal treatment is the real reason for friction between them. *(Time Bell rings)* Therefore, I appeal to the Home Minister to have a balance. If both are wrong, both should be punished. It is no use punishing the workers and say: you have no right to strike. The only reason given by the Minister in his speech is that the position has improved. I do not want to go into figures. But the figures will show that the position has not improved. The position has not improved so far as the production or maintenance of peace is concerned. A mere threat does not improve the position. The position will improve if you solve the question. Peace will not come by more legislation unless there is emotional participation of the working class in the production process, unless there is cooperation between the management and the labour. Therefore, there is no justification for this Jaw to be extended for 5 years more. The original Act was for four years. But the same reasons are given. I cannot understand what is the rationale for five years. I can understand if it is for one year. At the time of the original Bill the hon. Home Minister had stated that this would not be extended and that it would be sparingly used. Today if your statement is correct that the position has improved, then there is no justification whatsoever for extension of this draconian measure for a period of five years more. This will not help the hon. Minister. On the contrary, it will. *... (Time Bell rings)* Therefore, I appeal to you that you re-consider it and withdraw this draconian Bill and let it lapse in 1985.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): The last speaker, Mr. Bir Bhadra Pratap Singh.

SHRI BIR BHADRA PRATAP SINGH (Uttar Pradesh): Mr. Vice-Chairman. Sir, in this country the

[Shri Bir Bhadra Pratap Singh]

right to strike or the right of having collective bargaining is a civil right. So it will be fallacious to argue that by any stretch of imagination it can be included in the Fundamental Rights. In no democratic constitution anywhere in the world has it been referred to as such. As pointed out by Mr. Salve, it is merely a civil right. Having all sympathy for the cause of labour, it has to be judged in the objective situation of a country, in the circumstances of a country, the requirements of a country. What are our objectives and requirements? Ours is a growing society with great hopes and aspirations. Our population is growing very fast. Our demands are growing very fast. We have to provide our population at least the minimum needs. If somebody obstructs the provision of that minimum, we need a law for stopping that obstruction. Somebody has said that the provisions of the Industrial Disputes Act were there. But they were not sufficient to deal with such a situation and the present law was needed over and above that. That situation is required to be met in order to cope with the requirements of the country, maintaining the supply and providing the people their minimum needs. The need of the country is either to produce or to perish. If we do not produce, we are bound to perish. Nobody will argue that a nation must commit suicide and perish, but must retain a civil right which is not more fundamental than the lives of the citizens of this country.

One of my friends referred to the position in Japan. It is an affluent society. It is not a society with shortcomings. In Japan, if a worker wants to go on strike, he goes on working and producing. Here, this right of strike is not used to stop production. That situation creates problems in our country. Therefore, I will request my leftist friends to reconsider it. A law is not bad because it is drastic, but the law becomes bad if it is misused.

(Interruptions) I can say that it is your misapprehension. In none of the speeches, examples have been quoted in this House where it has been said as to have misused or misutilized. Both the sides have referred to the Bombay strike which lasted for such a long time. Who was doing it? Some labour leaders. Who were the sufferers? I don't think the labour leaders had sympathy for the workers who suffered in the strike in Bombay. I do not want to make allegations on the floor of the House. But certain aspersions were made against the leaders that they were in collusion with the millowners. There was overproduction of cloth. They hired some of these labour leaders who made the labourers to go on an indefinite strike so that there may not be any production of cloth in this country, so that there may be scarcity of cloth, so that the prices may get high and the mill-owners may earn more money. This Bill deals with a situation which cannot be dealt with by the Industrial Disputes Act. Wherever the Industrial Disputes Act is wanting in dealing with a situation, greater powers are required.

In the other House, a very useful suggestion was made. I think the Home Minister will also kindly re-consider it. There are three sections. There are three order-making sections. They are Sections 3, 8 and 9. By these orders, you can bar a strike for six months and there can be a further extension of another six months. You can very well imagine that we have absolute majority in the House and we can pass any legislation. Why are we seeking an extension for five years only? We could have passed a normal law for all time to come. But that is not our intention. Since there is a special situation which we want to meet, we are seeking an extension for a limited period of time although no law, nothing prevents us to pass an order for an indefinite period of time. But Section 3 provides that we can pass

an order or six months and again extend it for another six months. The total time limit contemplated is one year. As has been suggested, as under the prevention Detention law or many other laws, you have an advisory body to which the orders passed under Sections 3, 8 and 9 can be referred. You can make a provision that after a month or two, these bodies will sit and consider the scope of those orders. If there is an appeal provided against those orders, I think those grievances can be redressed. I think, that is a good suggestion that has come from the other House. I think our hon. Home Minister will seriously consider this proposition. Orders passed under Sections 3, 8 and 9 should be considered by some body like the advisory body as under the Preventive Detention Act, and they should consider whether under the situation orders passed under Sections 3, 8 and 9 are valid or not.

With these words, Sir, I support the Bill. And I feel that it is necessary to pass this Bill.

THE VICE-CHAIRMAN (SHRI R. RAMAKRISHNAN): Shri Kalpnath Rai. As a special case, I am allowing you.

**श्री कल्प नाथ राय (उत्तर प्रदेश):**  
आदरणीय उपसभाध्यक्ष महोदय, मैं गृह मंत्री जी ने जो विधेयक प्रस्तुत किया है उसका समर्थन करता हूँ। हिन्दुस्तान जैसे विकासशील देश में जहाँ हमने प्रजातंत्र और समाजवाद दोनों को, अपने राष्ट्रीय जीवन का उद्देश्य बनाया है, उस देश में जहाँ पर बेकारी की समस्या एक भीषण समस्या है वहाँ पर राष्ट्रीय उत्पादन को बढ़ाना सबसे बड़ा सवाल है। देश में यह कानून तो पहले से ही बना हुआ है। अब इसकी अवधि को पांच साल के लिए बढ़ाया जा रहा है। मैं इसका समर्थन करता हूँ। विरोधी दल के बहुत से सदस्यों ने यह तर्क प्रस्तुत किया है कि यह ड्रैकोनिशन ला है, मजदूर विरोधी है, जन विरोधी है, लेकिन मैं यह कहना चाहता हूँ कि हमारे देश के

अन्दर तीन-चार ऐसी हड़तालें हुईं जिनको भुलाया नहीं जा सकता है। आपको मालूम है कि सन 1974 में जार्ज फर्नान्डोज ने रेलवे की हड़ताल करवाई थी। इसमें 12 सौ या 14 सौ करोड़ रूपयों का नुकसान हुआ था। जिन मांगों को लेकर हड़ताल कराई थी, देश को पैरालाइज किया था, जब सन 1977 में जनता पार्टी की सरकार आई और श्री जार्ज फर्नान्डोज कैबिनेट के मंत्री बने तो उन्होंने उन मांगों में से एक भी मांग को पूरा नहीं किया। सारे देश के अन्दर बहुत बड़े पैमाने पर मजदूरों ने संघर्ष किया। आप जानते हैं कि सन 1971 की बांग्लादेश की लड़ाई के बाद पूरे देश की अर्थ-व्यवस्था छिन्न-भिन्न हो चुकी थी क्योंकि लड़ाई के बाद हिन्दुस्तान आर्थिक संकट से गुजर रहा था और सन 1972 में 14 प्रान्ता में सूखा पड़ा हुआ था। ऐसी स्थिति में सरकार के खिलाफ राष्ट्र विरोधी रेलवे की हड़ताल कराई गई। मैं इन लोगों से पूछना चाहता हूँ कि वह कितनी मजदूरों के हित में था? इसी तरह से उत्तर प्रदेश के मिर्जापुर जिले में सिगरोली पावर स्टेशन है जहाँ से पूरे देश को विद्युत की सप्लाई होती है, वहाँ कुछ पार्टी के लोगों ने हड़ताल कराने की काशिश की है। आप जानते हैं कि सिगरोली पावर स्टेशन में आग लगा दी गई जिससे करोड़ों रूपयों का नुकसान हुआ है। जैसा मैंने कहा है, हिन्दुस्तान एक विकासशील देश है। इस विकासशील देश में बेकारी और जनसंख्या वृद्धि सबसे बड़ी समस्याएँ हैं। सरकार के पास साधनों की कमी है, लेकिन फिर भी कम साधनों के होते हुए भी वह कारखाने बना रही है, जहाँ-जहाँ कारखाने बन रहे हैं। मैं उदाहरण के साथ कहना चाहता हूँ कि प्लानिंग कमिशन हमेशा यह तर्क देता है कि हम कोई कारखाना नहीं खोलेंगे क्योंकि कारखाने में कोई प्राफिट नहीं है। मैं पूर्वी उत्तर प्रदेश से आता हूँ। पूर्वी उत्तर प्रदेश में बहुत से कारखाने प्लानिंग कमिशन की स्वीकृति के बाद केन्द्र सरकार ने खोले। लेकिन वे कारखाने आज प्राफिट में नहीं हैं। प्राफिट में न होने के क्या कारण हैं जब से कारखाने बने तब से कुछ पार्टियों की मजदूर यूनियनों

[श्री कल्पनाथ राय]

लगातार उसमें हड़ताल कराती है और वर्ष में 50-50 बार हड़ताल कराते हैं। परिणामस्वरूप वे कारखाने लॉस में हो जाते हैं। जब हम प्लानिंग कमीशन से कहते हैं या टेक्सटाइल मिनिस्ट्री से कहते हैं कि हमारे इलाके में कारखाने खोलें, वहां बेकारी की समस्या है तो प्लानिंग कमीशन और टेक्सटाइल मिनिस्ट्री कहती है कि हम वहां कारखाने इसलिये नहीं खोल सकते क्योंकि जितने भी कारखाने आपके इलाके में खोले हैं वे पिछले 25 सालों से घाटे में चल रहे हैं। इसलिये हम वहां और कारखाने नहीं खोल सकते। इसका कारण केवल हड़ताल है। आदरणीय उपसभाध्यक्ष महोदय, बम्बई में डा० सामन्त ने हड़ताल कराई। मैं घावे जी से पूछना चाहता हूँ कि दुनिया के किसी भी लेबर मूवमेंट में जो तौर तरीके मार-काट खून, कत्ल, हत्याएँ डा० सामन्त के मूवमेंट द्वारा हुई, वैसा कहीं नहीं हुआ। मैं पूछना चाहता हूँ कि किस पोलिटिकल फिलासफी के अन्दर उनका यह संघर्ष था और किन मान दंडों के आधार पर वे संघर्ष कर रहे थे। आदरणीय उपसभाध्यक्ष महोदय, बम्बई एक ऐसा जगह है जहाँ...

SHRI S. W. DHAVE Under your Government there are workers in the textile industry who are temporary for ten years.

श्री कल्पनाथ राय : आदरणीय उपसभाध्यक्ष जी, इनका तर्क है कि टेम्परेरी वर्कर्स थे। मैं आपसे निवेदन करना चाहता हूँ कि अगर टेक्सटाइल मिल में एक लाख मजदूर हैं और आप जानते हैं कि कभी दबाव के कारण बहुत से लोगों को टेम्परेरी इम्प्लाइमेंट मिल जाता है। हम मैम्बर पार्लियामेंट हैं। हमारे पास बहुत से लोग आते हैं नौकरी के लिये हम भी बहुत से मिनिस्टर्स के पास जाते हैं कि फलां एम० एस० सी० पास है, बी० एस० सी० पास है, इसको नौकरी नहीं मिल रही है इसलिये इसको लेबर में ही नौकरी दिलवा दीजिए। इस पर बहुत से मंत्री टेलीफोन करके एडवाइस बेसिस पर उनको नियुक्त करा देते हैं और वे टेम्परेरी बेसिस

पर काम करते हैं। हमारे देश में संख्या का दबाव बहुत है और इस समस्या के कारण कारखानों में न चाहते हुए भी मैनेजमेंट और प्रबंधक या सरकार कभी-कभी लोगों को अप्वाइन्ट कर लेती है। लेकिन इसका मतलब यह नहीं है कि हम सरकार को पैरालाइज कर दें और सरकार को न चलने दें। आदरणीय उपसभाध्यक्ष महोदय, जो लोग हड़ताल का नारा देते हैं, दुनिया के किसी भी कम्युनिस्ट देश में, कम्युनिस्ट लोग जो हड़ताल की बात करते हैं तो वे क्या बता सकते हैं कि किसी भी कम्युनिस्ट देश में राइट स्ट्राइक है? हड़ताल का अधिकार क्या वहाँ है?

श्री चतुरानन मिश्र : किस कम्युनिस्ट देश में पूजापति हैं?

श्री कल्पनाथ राय : आदरणीय उपसभाध्यक्ष महोदय... (व्यवधान) : मैं चतुरानन मिश्र जी से पूछना चाहता हूँ कि जो पोलैंड में हड़ताल हुई तो उस हड़ताल को किस बेसिस पर कुचलन की कोशिश की गई?

श्री चतुरानन मिश्र : आप वहाँ जाकर हड़ताल करा सकते हैं, हम आपको रोकेंगे नहीं। आप जाइये वहाँ... (व्यवधान)।

श्री कल्पनाथ राय : आदरणीय उपसभाध्यक्ष महोदय, मैं निवेदन यह कर रहा था कि हिन्दुस्तान की आजादी के बाद जो हमने पोलिटिकल फिलासफी स्वीकार की है उसमें हमने जनतंत्र को भी स्वीकार किया है। हमारे संविधान का मूल आधार जनतंत्र है। इसके साथसाथ हमने स्वीकार किया है कि समाजवाद की स्थापना हमारा उद्देश्य है। जनतंत्र और समाजवाद दोनों हमारे उद्देश्य हैं। अगर कम्युनिस्ट देश में समाजवाद है तो वहाँ जनतंत्र है तो वहाँ समाजवाद नहीं है। हमने और एशिया, अफ्रीका और दूसरे 50 अक्षांक उत्तर में रहने वाले देशों ने डेमोक्रेटिक सोशलिज्म के सिद्धांत को इसलिये स्वीकार किया है क्योंकि हम जानते हैं जनतंत्र माध्यम से समाजवाद और

समाजवादी रहते हुए जनतंत्र के प्राप्त करना चाहता रहा। आदरणीय उपसभाध्यक्ष महोदय, हमारे, मित्र, कम्युनिस्ट पार्टी के नेता ... (व्यवधान) ...

श्री दीपेन घोष : मैंने कहा है कि आपकी बात से हमको रोशनी आ गई।  
... (व्यवधान) ...

श्री कल्पनाथ राय : आपको रोशनी नहीं मिल सकती है।  
... (व्यवधान) ...

आदरणीय उपसभाध्यक्ष महोदय, 1967 में बंगाल में कम्युनिस्ट पार्टी की सरकार आई। 1967 से अब तक 1985 तक पूरे बंगाल में इण्डस्ट्रियल प्रोडक्शन घटा है और हजारों कारखाने बन्द हुए हैं और लाखों मजदूर बंगाल छोड़कर भाग गये हैं।  
(व्यवधान)

उपसभाध्यक्ष (श्री आर० रामकृष्णन्) : आप अब समाप्त कीजिए। (व्यवधान)

श्री कल्पनाथ राय : आप अपने शीशे में अपने चेहरे को देखिये। जिस सरकार ने लाखों मजदूरों को बेकार कर दिया, जिस सरकार ने इण्डस्ट्रियल डेवलपमेंट बंगाल में खत्म कर दिया और पूंजीवाद नारा लगाने वाले ज्योति बसु मल्टीनेशनल कम्पनीज से बात कर रहे हैं इण्डस्ट्रियल डेवलपमेंट के लिये। हमारी सरकार ने रेलवे में, बिजली में, डिफेंस में एसोशियल सर्विसेज में जो पांच साल का एक्सटेंशन किया है यह राष्ट्रपति में और देशहित में वारगेनिंग का प्रिंसिपल है, मजदूर क्यूब क्विब वारगेनिंग के तहत सौदा कर सकते हैं, सरकार से मांग कर सकते हैं और अपने उपसभापति महोदय, माननीय गृह मंत्री जी जो राष्ट्र के हित में देश के हित में अमेंडमेंट लाये हैं हम इसका समर्थन करते हैं और विश्वास करते हैं कि आने वाली पीढ़ियाँ इसका समर्थन करेंगी। धन्यवाद।

SHRI S. B. CHAVAN: Mr. Vice-Chairman, I am very happy that this Bill has been able to invoke so much

of interest. I was remembered from both sides of the House. All the hon. Members who participated in the discussion—especially those from the Opposition—I cannot possibly say, did not know the implications of passing of this Bill. I cannot also say that they have not read the Bill, because in 1981 when the Bill was passed, the kind of arguments which were put forth then have been repeated today. First I would like to respond to one suggestion which the hon. Member on the opposite side said that the State Governments which were consulted in the matter for giving extension to this Bill were mostly Com-gress-ruled States and no other State Government seems to have been consulted, I would like to remind prof. Lakshmananna specially who happens to be from Andhra Pradesh.

[The Deputy Chairman in the Chair]

If he were to read what his Chief Minister, Mr. N. T. Rama Rao has suggested to Central Government, he would find that he said: "Don't extend the Bill only for 5 years; make it a permanent measure." If you are disputing the factual position. I am prepared to show you the letter written by Andhra Pradesh Government. So, on factual basis there should be no difference of opinion; either they have written or they have not written. I have got a letter with me which clearly shows that. Not only Andhra Pradesh, there are other friends who might be interested to know the position of the Janata Government in Karnataka. They will, perhaps, be surprised to know—or, perhaps, happy to know—that Janata Government in Karnataka have supported the Bill and they have agreed for extension by five years. So, it is not merely the Congress Governments but other State Governments also, because it is not due to any ideological differences. But being the ruling party, they know what are the difficulties they are confronted with; they know that if the provisions of the



[Shri S. B. Chavan]

Bill are not available to them, how difficult it is going to be for them to administer the State Government there. They are aware of the position and that is why, they have asked for extension. It is not with a view to taking any political advantage that I am mentioning these two States. There are also other Congress(I) Governments who have supported this. There is nothing special about these two States only. Madam. . . .

SHRI SATYA PRAKASH MALAVIYA (Uttar Pradesh): What about West Bengal?

SHRI S. B. CHAVAN: West Bengal have opposed it.

SHRI DIPEN GHOSH: What about Tripura?

SHRI S. B. CHAVAN: They have also opposed it.

SHRI DIPEN GHOSH: Let it go *on record*.

SHRI S. B. CHAVAN: On the factual position, there is no difference of opinion. I have conveyed to the House whatever opinions have been expressed by the State Governments.

Madam, it seems, hon. Members from the opposite are deliberately distorting facts or they are deliberately saying things which, in fact, are not borne out by the provisions of the Bill. First of all, I would like to tell the hon. Members from the Opposition. They were saying that while we are taking action against the workers, we seem to be doing almost nothing so far as the private sector is concerned, so far as the capitalists and the multi-nationals are concerned, who are taking full advantage of the prevailing situation. They have asked, if provisions are there, what action has been taken against those who have declared lock-outs or who have laid off workers or who have closed down factories.

SHRI S. W. DHABE: Closures are not covered.

SHRI S. B. CHAVAN: Madam, first of all, I would like to allay the fears. I have the figures with me. Hon. Member, Shri Dipen Ghosh, seems to be under the impression, that the provisions are there, but they do not seem to have been invoked at all. There have been thirty cases where the provisions of the Essential Services Maintenance Act have been invoked. If I were to give the position; Assam, Maharashtra, AIR, Doordairshan coal industry, security paper mills, these are the five institutions in relation to which I have got the figures.

In Assam, the total number arrested was 453. Here, first of all, let me clarify the position that under the Essential Services Maintenance Act, powers in relation \*o power generation, supply and holding elections to the Assemblies and Parliament, have been delegated to the State Government. Barring four State Governments, these powers have been delegated to the rest of the State Governments. As I said, in the case of Assam, the total number arrested is 453; number prosecuted is 450; acquittal-2; 448 cases are still pending trial. In the case of Maharashtra, the total number arrested is 1030; number prosecuted-11; convicted-11-simple imprisonment for five days or so; acquitted-nil. AIR and Doordarshan, 668 people have been arrested; coal industry, nineteen persons have been dismissed from service. Security paper mills, 41 employees have been chargesheeted.

Information regarding violence in respect of labour agitations. I have got the figure? from 1981 to 1984, where *gheraos* have been indulged in. clashes have taken place, assaults have been done. Total number of mandays lost in the year 1980-21.93 million; 1981-36.58 million; 1982-33.21 million plus 41.40 million on account of the Bombay textile strike; 1983-33.48 million; 1984-85-55.13 million: 1985-pro-visional-January to April-4.51 million

This is a provisional figure. Value of production loss comes to;

(Rs. in Crores)

	Due to strike	Due to lock-out	Total
1981	465	163	628.77
1982	196.81	89.86	286.67
1983	247.72	164.68	412.40*
1984 (Provisional)	266.25	120.39	386.64

\*This excludes value of production loss due to Bombay textile strike estimated at Rs. 3287.49 crores in 1982 and Rs. 17.67 crores in 1983.

So, these figures very clearly establish the fact that the provisions, though they were of an enabling nature, they had to be invoked in order to see that the wheels of production are kept running. This is the barest minimum which, in fact, were essential, which were resorted to (*Interruptions*). I am coming to your point. Madam, a point was made and all the instances which the hon. Members gave, they all covered non-essential services. They have not mentioned even one instance where essential service was involved or the managements had failed or they had declared a lock out, and the Government had failed to take any action. Does it mean that they would like to have a wider coverage than what we are contemplating? If the hon. Members feel that we should taken action against those units first they will have to be declared as essential services. Thereafter on their failure, to respond to the demands of the workers, we will be within our rights to take action against the private sector. At least, if I have understood the hon. Members correctly, though they have criticised the Essential Services Maintenance Act, while quoting the figures or while quoting the instances they have only mentioned non-essential services. If the intention, as I have put it, is to extend it and have the wider coverage, at least for the time being we do not feel that way, but if it becomes necessary, certainly we will have to think about the same (*Interruptions*).

SHRI JAGESH DESAI (Maharashtra): Her? it is said that we do not want it, we are in favour of labour.

SHRI S. B. CHAVAN: First of all, I would like to clear this wrong impression that this Government is totally opposed to any kind of negotiations. We do not want that. We are aware of the fact that the contended labour can definitely give better result. There is no doubt about it. We fully believe in that theory and we have been at it. It is only in the public sector that we have given participation to the labour and even to the highest level. Now you are trying to pinpoint that there are some lacunae. I can very well understand that. This is the experiment that we have started. There can be shortcomings. If there are shortcomings, they can be overcome and the system can be made better. But I must say that we are not opposed to any labour relations machinery. Conciliation can be had, adjudication can be had. There can be all kind of understanding and taking the labour into confidence. Certainly, we are prepared to discuss all aspects of the question. This is an enabling measure. Having failed with all the machinery that we have set up if nothing seems to work and if some of the hon. Members or some of the labour leaders resort to strike not for the benefit of the workers but for political objectives, how can we allow this kind of activity? If we are serious about imple-

[Shri S. B. Chavan] mentation of the Seventh Five-Year Plan, at the rate at which the inflation is increasing, the prices are increasing etc., if W« are really sincere about it, I do not think there is any short-cut method available, unless you are to go in for greater production, and whosoever fails in not giving greater production, certainly a system will have to be evolved by which both, labour and management will have to be told that if there is going to be any less production, you are going to be held responsible and accountable. Ultimately, are we . . .

SHRI NIRMAL CHATTERJEE: Kindly give examples where increased production has resulted in reduction in prices.

SHRI S. B. CHAVAN: You are an economist, I know. That is why you choose some other occasion when this becomes necessary. When the Seventh Plan Draft will come up for discussion, that will be the proper occasion when you can discuss the theory and practice of the relevance between the rate of inflation and greater production. These aspects can be considered at that point. I was touching only on a small aspect of the question.

Madam, if we are really interested in having a greater rate of growth greater production, contended labour and self-reliant to the extent it is possible and not to depend on foreign countries for resources, I do not think there is any other method, any shorter method by which you can possibly indulge in this kind of thing. So by all means, I will request all the labour leaders who are Members of this House, please use your good offices, make the best of the opportunity, bring both sides together, try your level best etc. etc.—we are not opposed to it—but at the same time if the entire effort were to fail, as a last resort the measures have been provided for. These are measures which are not supposed to be taken in the beginning. They have to be taken as a last resort, having failed in every thing, having failed to persuade every section of the labour leadership. What is it, do you believe in a small number of people holding the entire population of this country to ransom, whatever be the main objective that

you may have, so long as we do- not feel satisfied we are going to resort to strike?

Some hon. Members went to the extent of saying that to go *on* strike is a fundamental right. These are very strange tilings. In fact this was agitated before the Supreme Court, the first Ordinance which was issued was taken to the Supreme Court on the basis that it is violative of articles 14, 19 and 21 of the Constitution, and the Supreme Court gave a ruling that to go on strike is not a fundamental right. It is not a fundamental right. It is a valuable right, as my friend Mr. Salve said. We are not opposed to total collective bargaining. But collective bargaining for what purpose? If the collective bargaining is going to be for the purpose of paralysing the entire economy of the country, the security of the country, I think one hon. Member said that this is a democratic system wherein we work for the 'good of the majori'y. Now I will request hon. Member, who are representing the labour class here: are you going to serve only the limited interests of a labour class, or are *you* going to *look* to the welfare of the entire country? In that context, you are a microscopic minority. The entire country cannot be held to ransom and that is why this has become inevitable. I do not think that we have great pleasure in introducing measures of this nature. But this has become essential when conditions have been created where the welfare of the labour class is not the objective but some other objectives are there why people resort to agitations.

Madam, there are other points. In fact I have given you the figures of the mandayg lost. I think I must also clarify that point. One or two hon. Members have referred to, the survey conducted by the 'Times of India' and the figures were given, what is the total loss because of the strike and what is the total loss of production due to lock-outs. A case was made out that because of lock-outs the loss in production is much more than because of strikes. I believe the hon. Member who has quoted the figures from the 'Times of India' publication was giving the figures for the total industrial sec-

tor as such. Was he quoting the figures only for essential services or inclusive of non-essential services also? At least my information is that this is for the industrial sector as a whole for which the figures have been published, and this has no relevance so far as the essential services are concerned. In essential services I don't think there have been any instances where action was called for and Government seemed to have failed in taking action against the management in spite of the provisions there.

Madam, Dr. Shanti Patel made a point—he is not here: he told me he has some other engagement and that is why he could not be present—that there is an enabling provision in this Bill by which any industry can be declared by notification as an essential industry. One of the notifications issued was by the Science and Technology Department wherein the uranium industry—for which the notification has been issued—is covered. There is a procedure laid down and within a particular time limit both the Houses have to pass a resolution giving approval to the notification issued by the Department, and that is why that notification also was laid before the honourable House. So, this is a pre-condition. Unless it is established that for running an essential industry the running of any subsidiary industry is also essential, I don't think we can issue a notification and take the power of declaring any of the industries as an essential industry. That will defeat the very purpose for which we wanted to keep the objective of this Act in a very confined and limited manner.

A number of other points have been made but I don't think I need to reply to all those points because most of them do not have any relevance so far as this particular Bill is concerned.

Madam, there is another point which in fact has been very validly made, that is, that a provision is made that any police officer has been empowered to arrest anyone without any warrant

and it is quite possible that this power can be misutilized if it is given to a very low police officer. That was a very valid point. That is why, when we issue guidelines we will see that the rank of a particular police officer is prescribed, that these powers have to be exercised by a police officer not below a particular rank. That we will definitely take care of and I don't think there will be any scope because ultimately most of these provisions are either for the public sector undertakings, Government undertakings or semi-Government undertakings where the question of taking action by any small police officer will not normally arise; but still we will ensure that these powers are sparingly used, judiciously used and no scope is given for misuse of the powers which have been given to the police officers.

Madam, these are the only points which honourable Members have raised and I think I have been able to give replies to these points and I hope the House will pass the Bill.

Thank you,

THE DEPUTY CHAIRMAN: I shall first put to vote the amendment moved by Shri Dipen Ghosh for reference of the Bill to a Select Committee of the Rajya Sabha. The question is:

"That the Bill to amend the Essential Services Maintenance Act, 1981, be referred to a Select Committee of the Rajya Sabha consisting of the following members, namely:—

1. Shri M. S. Gurupadaswamy
2. Shri Sushil Chand Mohunta
3. Shri S. W. Dhabe
4. Shri V. Gopalsamy
5. Shri Lai K. Advani
6. Shri Parvathaneni Upendra
7. Shri Chaturanan Mishra
8. Shri Dipen Ghosh
9. Shri Nirmal Chatterjee
10. Shri Sukomal Sen

[The Deputy Chairman]

with instructions to report by the first day of the next Session."

*The motion was negatived.*

THE DEPUTY CHAIRMAN: Now I will put to vote the motion moved by the Minister. The question is:

"That the Bill to amend the Essential Services Maintenance Act, 1981, as passed by the Lok Sabha, be taken into consideration."

*The motion, was adopted.*

THE DEPUTY CHAIRMAN: We shall now take up clause-by-clause consideration of the Bill.

*Clause 2 (Amendment of section 1 of Act 40 of 1981).*

THE DEPUTY CHAIRMAN: Now clause 2. There are two amendments. One by Shri S. W. Dhabe.

SHRI S. W. DHABE: Madam, I move;

(1) "That at page 1, line 6, for the words 'nine years' the words 'five years' be substituted."

*The question was proposed.*

SHRI S. W. DHABE: The hon. Minister has not given any reason in his reply why it should be extended by five years only.

THE DEPUTY CHAIRMAN: The question is:

(1) "That at page 1, line 6, for the words 'nine years' the words 'five years' be substituted."

*The motion was negatived.*

THE DEPUTY CHAIRMAN: Amendment No. 2 is by Shri Satya Prakash Mala viya.

SHRI SATYA PRAKASH MALAVIYA: Madam, I move:

(2) "That at page 1, line 6, for the words 'nine years' the words 'four years and one day' be substituted."

*The question was proposed.*

श्री सत्य प्रकाश मालवीय : महोदया, 23 सितंबर 1981 को यह विधेयक पारित किया गया था और जिस समय विधेयक पारित किया गया था और उस समय केवल चार साल के लिये कानून के रूप में इसको रहना था लेकिन अब जो संशोधन लाया गया है वह चार साल से अधिक यानी अगले पांच साल तक के लिये इसको आप रखना चाहते हैं। इसके मानी यह हैं कि सरकार की नीयत साफ नहीं है और इसलिये मेरा संशोधन है कि केवल चार वर्ष और एक दिन का समय दिया जाय यानी 24 सितम्बर, 1985 के बाद यह विधेयक अपने आप खत्म हो जाना चाहिये।

THE DEPUTY CHAIRMAN: shall now put Amendment No. i moved by Shri Satya Prakash Mala-viya to vote. The question is:

(2) "That at page i line 6, for the words 'nine years' the words 'four years and one day' be substituted."

*The motion was negatived.*

THE DEPUTY CHAIRMAN: I shall now put clause 2 to vote. The question is:

"That clause 2 stand part of the Bill."

*The motion was adopted.*

*Clause 2 was added to the Bill.*

*Clause I, the Enacting Formula and the Title were added to the Bill.*

SHRI S. B. CHAVAN: Madam, I move:

"That the Bill be passed."

*The question was proposed.*

SHRI DIPEN GHOSH: Madam Deputy Chairman, we have heard the Union Home Minister, and particularly I have heard him with very rapt attention. (Interruptions) इसलिए मैं कहता हूं कि आप बैठ जाइये। जितनी रोशनी डाली है उस रोशनी के लिए ही हम कहते हैं (व्यवधान) हम जानते हैं कि उन्होंने बहुत रोशनी डाली है।

My colleague, Mr. S. W. Dhabe, wanted to know why the Act is being sought to be extended by another five years, why not more and why not less, to which the Minister did not reply. Naturally, it is assumed from the statement of the Home Minister that he wanted the extension of the life of his Act . . .

श्री लक्ष्मी नारायण : मेरा प्वायंट ऑफ ऑर्डर है । मैं यह कहना चाहता हूँ कि मेरे मां-बाप ने मेरा नाम लक्ष्मी नारायण क्यों रखा, राधेश्याम क्यों नहीं रखा, कुछ और क्यों नहीं रखा,

श्री दीपेन घोष : अपने बाप का पता दे दीजिये । हम पूछ लेंगे ।

What I assume from the statement of the Home Minister is ...

SHRI CHATURANAN MISHRA: A point of order.

THE DIPUTY CHAIRMAN:                      No point of order.

SHRI CHATURANAN MISHRA: When the point of order was raised, some ruling was required from the Chair.

THE DIPUTY CHAIRMAN: Mr. Dipen Ghosh took the responsibility of the Chair to answer to it. There was no point of order at that time.

SHRI DIPEN GHOSH: Madam Deputy Chairman, Mr. Dhabe's question was not replied by the Minister. But I assume from the Minister's statement that the extension of this Act, the life of this Act he wanted by five years because he wanted it to be coterminus with the Seven Five-Year Plan. I do not know whether he will agree or disagree. Because he referred to that with the Seventh Five Year Plan. They want to take our country to a particular prosperity.

SHRI KALPNATH RAI: Production.

SHRI DIPEN GHOSH: I am coming to that. Our another friend has said that whenever the production has increased, it is because of the workers and because of the toiling people of our country. Naturally, you must take the toiling people into confidence. You must give the toiling people the right to work, the right to live and the right to better their living conditions. This piece of legislation which is sought to be introduced is intended to take away that right. Therefore, we cannot associate ourselves with the passing of this anti-labour Bill. It is worth tearing off and throwing it into the dust bin. We walk out.

*[At this stage some hon. Members left the Chamber]*

SHRI INDRADEEP SINHA: Madam, just a minute. *(Interruptions)*. They do not want to listen me. So I also walk out.

*[At this stage some other hon. Members also left the Chamber.]*

THE DEPUTY CHAIRMAN: The question is;

"That the Bill be passed."

*The motion was adopted.*

THE DEPUTY CHAIRMAN: I shall now put the Resolution moved by Shri S. B. Chavan to vote. The question is;

"That in pursuance of sub-section (2) of section 2 of the Essential Services Maintenance Act, 1981, this House approves the Notification of the Government of India in the Ministry of Home Affairs S. O. No. 595 (E), dated the 8th August, 1985, published in Gazette of India Extraordinary, Part II, Section 3 (ii) dated the 8th August, 1985, declaring 'Uranium Industry' as an essential service from the date of issue of the Notification, laid on the Table of the Rajya Sabha on the 16th August, 1985."

*The motion was adopted.*